

ITEM NO.204

COURT NO.6

SECTION XVI

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).12111/2006

(From the judgement and order dated 26/06/2006 in CC No. 207/2005 of The HIGH
COURT OF CALCUTTA)

DIPAK CHAKRABORTY,C.M.D,ECL & ORS

Petitioner(s)

VERSUS

AWADH KISHORE SHARMA & ORS

Respondent(s)

(With prayer for interim relief and office report)
(FOR FINAL DISPOSAL)

Date: 23/02/2007 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE H.K. SEMA

HON'BLE MR. JUSTICE D.K. JAIN

For Petitioner(s)

Mr. Mohan Parasaran, ASG

Mr. Ajit Kumar Sinha,Adv.

For Respondent(s)

Dr. Rajeev Dhawan, Sr. Adv.

Mr. Raj Kumar Gupta, Adv.

Mr. Sheo Kumar Gupta, Adv.

Mr. Bhanu Pratap Gupta, Adv.

Mr. A.N. Bardiyar, Adv.

UPON hearing counsel the Court made the following

O R D E R

Leave granted.

No contempt is made out and the petition for contempt is not maintainable. The High Court was clearly in error in initiating the contempt proceedings. The order of the High Court is, accordingly set aside. It is, however, open to the respondents to approach the High Court afresh, if so advised.

Appeal is allowed in terms of the signed order.

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(Ravi P. Verma)

(Anand Singh)

Court Master

Court Master

[Signed order is placed on the file]

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IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 948 OF 2007

(Arising out of SLP(C) NO.12111/2006)

SHRI

DIPAK

APPELLANT

CHAKRABORTY, CMD, ECL &

(S)

ORS.

Versus

AWADH KISHORE SHARMA

RESPONDENT

& ORS.

(S)

O R D E R

Leave granted.

The challenge in this appeal is to the order dated 26/06/2006 of the Division Bench of the High court of Calcutta in CC No.207/2005. The aforesaid contempt petition was initiated for alleged violation of the order of 06/03/2002 passed by the Division Bench of the High Court. The order reads as under:-

"Heard the learned counsels for the parties.

We have perused the order of the learned single Judge dated 18/12/2001.

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After hearing both the learned counsel for the parties we modify the order dated 18/12/2001 to the extent that the contemnors shall supply the coal to the

writ petitioners in terms of the order passed by the Hon'ble Justice Panigrahi, dated August 29, 2000 after complying with the order passed by the Hon'ble Supreme Court dated October 20, 2000, within six months as far as possible.

In case the aforesaid order is not complied with, it will be open for the appellant to approach this Court afresh.

The appeal, after being treated on day's list, along with the application is disposed of accordingly.

Parties concerned are to act on a xerox copy of this order on the usual undertaking."

Reading of the aforesaid order clearly discloses that

no specific direction had been given to the respondents-appellants herein to comply with the order. In fact, liberty was given to the respondents to approach the Court afresh if the order is not complied with in GA 4851/2001 arising out of CC 85/2001. Still worse, the aforesaid order was passed in contempt appeal. This would clearly show that the Court was not inclined to issue a definite direction having regard to the facts and circumstances of this case.

In view thereof, no contempt is made out and the

petition for contempt is not maintainable. The High Court
was clearly in error in initiating the contempt proceedings.

The order of the High Court is, accordingly, set aside. It is,
however, open to the respondents to approach the High
Court afresh, if so advised.

Appeal is allowed in the above terms.

.....J.

(H.K. SEMA)

New Delhi;

.....J.

February 23, 2007.

(D.K. JAIN)