

ITEM NO.13 + 27

COURT NO.1

SECTION XV

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

I.A. 2/2015 in Petition(s) for Special Leave to Appeal (C) No(s).
20644/2013

(Arising out of impugned final judgment and order dated 01/05/2013
in SBCMA No. 365/2013 passed by the High Court of Rajasthan at
Jodhpur)

RAJ.STATE ROAD DEV.& CONST.CORP.LTD.& ORS.

Petitioner(s)

VERSUS

APR PROJECTS PVT.LTD.

Respondent(s)

(for directions and office report)

WITH

I.A. NO.2 IN S.L.P (c) No.20941 of 2013

(for directions and office report)

Date : 30/06/2016 These applications were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE A.M. KHANWILKAR

HON'BLE DR. JUSTICE D.Y. CHANDRACHUD

For Petitioner(s)

Mr. Raghuvir Sharma, Adv.

Mr. Dharmendra Sharma, Adv.

Mr. Vipin Kumar Sharma, Adv.

Dr. Rajeev Sharma, Adv.

For Respondent(s)

UPON hearing the counsel the Court made the following
O R D E R

We had by our order dated 19.07.2013 requested the High
Court of Rajasthan to expedite the hearing and disposed of S.B.
Civil Misc. Appeal No. 364 of 2013 and S.B. Civil Misc. Appeal
No.365 of 2013 pending before it. Since the appeals, were not
disposed off despite our request we had once again by our order
dated 05.05.2014 repeated that request hoping that the High

Court would dispose off the as desired.

Learned counsel for the petitioners however points out that despite the said two orders of this Court, the High Court has not been able to dispose off the matter finally primarily because the respondent has been seeking repeated adjournments from the High Court for getting the matter argued. The respondent has not even chosen to appear in this Court despite dasti service of notice upon it by the appellant. He submits that keeping in view the terms and conditions of the contract the trial court was justified in holding that there was no arbitration clause between the parties that could call for grant of any relief under the Arbitration and Conciliation Act, 1996. He submits that although bank guarantees for a sum of Rs.6.18 crores in SLP (C) No.20644 of 2013 and Rs.8.79 crores in SLP (C) No.20941 of 2013 have been provided by the respondent company; the order of restraint against the encashment of the same issued by the High Court prevents invocation of the same to the prejudice of the appellant.

It is therefore a fit case for an order of stay of the order issued by the High Court to enable the appellant to encash the said bank guarantee subject to the ultimate outcome of the present special leave petition.

In the circumstances, therefore, and keeping in view the fact that the respondent has not even chosen to appear before us despite service of notice upon it as also the fact that the

High Court has not been able to dispose off the matter because of the non-cooperative attitude adopted by the respondent, we are inclined to stay the operation of the impugned interim order passed by the High Court.

We accordingly direct that interim order dated 01.05.2013 passed by the High Court in S.B. Civil Misc. Application No.364 and 365 of 2013 restraining the appellant corporation from encashing the bank guarantees furnished by the respondent company shall remain stayed pending further orders from this Court. This would imply that the appellant shall be free to seek encashment of bank guarantee in question, subject to the outcome of these special leave petitions .

(Ashok Raj Singh)
Court Master

(Veena Khera)
Court Master