

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. _____ OF 2014
(Arising out of SLP (C) No. 23717 of 2004)

UNION OF INDIA & ANR.

Appellant(s)

VERSUS

JETHAMAL MOHANLAL (DEAD) THROUGH LRS

Respondent(s)

O R D E R

Leave granted.

The grievance of the appellants is directed against the order dated 4th march, 2004 passed by the Division Bench of the Bombay High Court in Writ Petition No. 5872 of 1996.

By the impugned order the High Court had allowed the Writ Petition filed by the respondent(since deceased now represented by his legal representatives) whereby the appellants were directed to pay the apparent consideration with regard to the acquisition of the property in question bearing survey no. 411/1, plot no. 1A at Mouje Bhosari, Taluka Haveli, District Pune, measuring 4321 Sq. mtrs. The property was acquired by the appellants on the ground that the apparent consideration did not reflect the correct sale consideration.

Subsequent to the order passed by the Bombay High Court, we have been told that the appellants deposited the apparent

consideration and the amount was kept in a fixed deposit. That fixed deposit has since matured and the amount has been claimed by the respondent/his legal representatives. It is submitted by Mr. Ranjit Kumar, learned Solicitor General that the property was encroached upon and that was not known to the appellants when they acquired the property.

Be as that it may, since the respondent/legal representatives have already taken the apparent consideration along with interest that has accrued thereon pursuant to the order passed by the Bombay High Court, we are not inclined to entertain this appeal, since the question raised before us is academic.

It is pointed out by learned Solicitor General that perhaps physical possession of the property has not yet been taken over by the appellants. If that is so, the appellants may take physical possession of the property in accordance with law and learned counsel for the respondent/legal representatives have assured us and undertaken to extend cooperation even by the legal representatives of the deceased respondent in assisting the appellants in taking physical possession of the property, if necessary by lending their names as party applicant in the execution proceedings, in case the appellants decide to execute the decree which is said to have been passed on 21st October, 1994.

We may note that the deceased respondent had filed an affidavit in this court on 30th January, 2006 in which it is stated inter alia as under:

"It is pertinent to note that the answering respondent had even undertaken to extend his cooperation, if

necessary, by lending his name as a party-applicant in the execution proceedings, if the Central Government decided to execute the said decree through the process of Court. Hence, considering the stand of the answering Respondent and the position in which he is put into the Petitioners are not right and justified in refusing to make payment to the answering Respondent."

Needless to say that the legal representatives of the deceased respondent are and will be bound by the assurance given by the learned counsel in this court as also the affidavit filed by the deceased respondent in this court

Appeal is disposed of. Question of law is kept open. No costs.

.....J
(MADAN B. LOKUR)

.....J
(C. NAGAPPAN)

NEW DELHI
AUGUST 26, 2014

ITEM NO.2

COURT NO.12

SECTION IIIA

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

Petition(s) for Special Leave to Appeal (C) No(s). 23717/2004

(Arising out of impugned final judgment and order dated 04/03/2004 in WP No. 5872/1996 passed by the High Court Of Bombay)

UNION OF INDIA & ANR.

Petitioner(s)

VERSUS

JETHAMAL MOHANLAL (DEAD) THROUGH LRS
(with office report)

Respondent(s)

Date : 26/08/2014 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE MADAN B. LOKUR
HON'BLE MR. JUSTICE C. NAGAPPAN

For Petitioner(s) Mr. Ranjit Kumar SG
Mr. Arijit Prasad, Adv.
Ms. Asha G. Nair, Adv.
Ms. Anil Katiyar, Adv.
Mr. B. V. Balaram Das ,Adv.

For Respondent(s)
Mr. Shivaji M. Jadhav ,Adv.
Mr. Rahul Jain, Adv.
Ms. Smitashi Talukadar, Adv.

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

Leave granted.
Appeal disposed of in terms of the signed order.

(NEELAM GULATI)
COURT MASTER

(JASWINDER KAUR)
COURT MASTER

(Signed order is placed on the file)