

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).17857/2009

(From the judgment and order dated 26/06/2009 in SCA No. 18692/2005 of The HIGH COURT OF GUJARAT AT AHMEDABAD)

DEVI MULTIPLEX & ANR.

Petitioner(s)

VERSUS

STATE OF GUJARAT & ORS.

Respondent(s)

(With appln. For permission to file synopsis, clarification/direction and with prayer for interim relief and office report)

WITH
SLP(C) NO. 18122 of 2009 - with prayer for interim relief & O/Report

SLP(C) NO. 18245 of 2009 - with prayer for interim relief & O/Report

SLP(C) NO. 18258 of 2009 - With appln. For exemption from filing c/c of the impugned judgment, exemption from filing O.T. and with prayer for interim relief and office report

SLP(C) NO. 18262 of 2009 - With appln. for exemption from filing certified copy of the impugned judgment and with prayer for interim relief and office report

SLP(C) NO. 18263 of 2009 - With appln. for exemption from filing certified copy of the impugned judgment and with prayer for interim relief and office report

SLP(C) NO. 18264 of 2009 - With prayer for interim relief & O/Report

SLP(C) NO. 18265 of 2009 - With appln. for exemption from filing certified copy of the impugned judgment and with prayer for interim relief and office report

SLP(C) NO. 18266 of 2009 - With appln. for exemption from filing certified copy of the impugned judgment and with prayer for interim relief and office report

SLP(C) NO. 18267 of 2009 - With appln. for exemption from filing certified copy of the impugned judgment and with prayer for interim relief and office report

SLP(C) NO. 18271 of 2009 - With appln. for clarification/direction and with prayer for interim relief and office report

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SLP(C) NO. 18282 of 2009 - With appln. for exemption from filing certified copy of the impugned judgment and with prayer for interim relief and office report

SLP(C) NO. 18292 of 2009 - With appln. for exemption from filing certified copy of the impugned judgment and with prayer for interim relief and office report

Date: 18/09/2009 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S.H. KAPADIA
HON'BLE MR. JUSTICE AFTAB ALAM

For Petitioner(s) Mr. Ashok H. Desai, Sr.Adv.
Mr. M.r. Calla, Sr.Adv.
Mr. K.V. Viswanathan, Sr.Adv.
M/S. Khaitan & Co.,Adv.

For Respondent(s) Mr. Preetesh Kapur, Adv.
Ms. Hemantika Wahi ,Adv
Ms. Pinky Behra, Adv.
Ms. K. Enatoli Sema, Adv.
Mr. Somanatha Padhan, Adv.

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

Leave granted.

Hearing expedited.

On 20th August, 2009 this Court passed an order in which this Court recorded that Multiplex Theaters have started paying current taxes (disputed) without prejudice to their rights and contention in the pending civil appeals. This Court further observed that on account of various factors including economic recession, question regarding interim relief needs to be considered. Accordingly the matters stood adjourned.

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Today the matters have come for interim relief.

Shri Ashok Desai, learned senior counsel appearing on behalf of Multiplex Theaters gave us a Chart which indicates the total outstanding dues (without interest) as on 31st July, 2009. He submitted that each of the assessee is ready and willing to deposit the outstanding dues with the Department without prejudice to their rights and contentions in a phased manner. He further submitted that the assessee(s) may be permitted to deposit the amounts in the last column of the Chart, (which refers to total outstanding dues as on 31st July, 2009), to be paid in twelve equal quarterly instalments with interest at 9 per cent on the reducing balance.

This has been opposed by Shri Preetesh Kapoor learned counsel appearing on behalf of the Department.

Keeping in mind the ground realities, we are of the view that the Revenue stands secured if each of these Multiplex Theaters are directed to deposit the outstanding dues as on 31 st July, 2009 in six equal quarterly instalments with interest at 9 per cent on the reducing balance. The first of such instalments shall be paid on or before 1st November, 2009 and thereafter subsequent instalments shall be deposited as directed above. We make it clear that in the event of a single default the interim relief, namely, stay against coercive steps shall stand automatically revoked.

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We once again clarify that this indulgence is shown only with regard to payment of outstanding dues as on 31 st July, 2009. It is specifically understood that each of these assesseees will continue to pay current taxes as per the procedure which is in practice as on date.

As long as each of the assessee(s) continues to comply with the time-bound schedule, spelt out hereinabove, Department will not take coercive steps to recover the taxes, subject to single default in which event this order shall stand vacated.

(S. Thapar)
PS to Registrar

(Madhu Saxena)
Court Master