

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

RECORD OF PROCEEDINGS

CIVIL APPEAL NO(s).2600-2602 OF 1998

M/S. JOHN TINSON & CO. PVT. LTD. & ORS.

Appellant (s)

VERSUS

B.K. MALHAN (D) THROUGH LRS. & ORS.

Respondent(s)

(With office report)

With I.A. Nos.19-21 of 2005.

WITH Civil Appeal NO.2603 of 1998, (with office report),

C.A. No.2604/1998, (with office report)

SLP(C) Nos.718-719/2001 (with prayer for interim relief and office report)

Date: 19/09/2005 These Appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S.N. VARIAVA

HON'BLE DR. JUSTICE AR. LAKSHMANAN

For Appellant(s) Mr. Rajiv Sawhney, Sr. Adv.

in CA 2600-02/99, Mr. Ravi Kant Chadha, Adv.

SLP(C) Nos.

Mr. Praveen Kumar, Adv.

718-719/2001

In CA 2603/98,

Mr.Arun K.Sinha, Adv.

2604/98

For Respondent(s)

Nos.1 & 2

Ms. Suruchii Aggarwal, Adv.

Ms. Jugnu Bagga, Adv.

3 to 9

Mr. Arun K. Sinha ,Adv

UPON hearing counsel the Court made the following

O R D E R

The applications stand dismissed in terms of the signed order.

(Three Crores

We fix the value of the property at Rs.3,82,69,500/-

Eighty Two Lacs Sixty Nine Thousand Five Hundred only). The amount to be paid within 60 days by demand draft as per the consent terms.

s that the

At this stage learned senior counsel for the Appellants state

amount shall be paid within three weeks.

List on 24th October, 2005 for reporting compliance.

(K.K. Chawla)

(Jasbir Singh

Court Master

Court Maste

[Detailed signed order is placed on the file]

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

I.A. NOS.19-21 OF 2005

IN

CIVIL APPEAL NOS.2600-2602 OF 1998

M/S. JOHN TINSON & CO. PVT. LTD. & ORS.

Appellant (s)

VERSUS

B.K. MALHAN (D) THROUGH LRS. & ORS.

Respondent(s)

WITH

CIVIL APPEAL NO.2603 OF 1998

WITH

CIVIL APPEAL NO.2604 OF 1998

AND

SPECIAL LEAVE PETITION (CIVIL) NOS.718-719 OF 2001

O R D E R

Before this Court consent terms have been filed on 2nd August, 2005.

Both sides have appointed M/s Kothari & Associates as Valuers to value the

concerned property. Under clause 5 both sides have undertaken to this Court

that they shall not challenge the valuation report and that the same shall be

binding on both of them.

The Valuer has now valued the property in a sum of Rs.3,82,69,500/-

(Three Crores Eighty Two Lacs Sixty Nine Thousand Five Hundred only).

Now applications have been filed purporting to seek clarification but in effect seeking to challenge the valuation and to wriggle out of the consent terms.

In support of these applications, it is submitted that the Valuer has grossly

under-valued the tenanted portion of the property and has not taken into consideration the letters written by one of the tenants offering to pay a much higher rent. It is also submitted that the Valuer could have used an other

method of valuation and should have used a multiple method of valuation which would then show the correct value of the property.

We are unable to accept any of the submissions. The Valuer has been appointed out of a list of Valuers supplied by the applicant. The Valuer was free to adopt the method of valuation which he considers correct. It could not be shown to us that the method adopted by the Valuer is not the correct method.

The Valuer has taken into consideration the actual rents now being received. It is always possible for parties to get letters to the effect that higher rents could be recovered. If a Valuer decides to ignore such letters and proceeds to value on basis of rents actually received, it cannot be said that the Valuer has erred.

We, therefore, see no substance in these applications. The applications

stand dismissed.

We fix the value of the property at Rs.3,82,69,500/- (Three Crores Eighty Two Lacs Sixty Nine Thousand Five Hundred only). The amount to be paid within 60 days by demand draft as per the consent terms.

At this stage learned senior counsel for the Appellants states that the amount shall be paid within three weeks.

List on 24th October, 2005 for reporting compliance.

.....J.

(S.N. Variava)

.....J.

(Dr. AR. Lakshmanan)

New Delhi;

September 19, 2005.