

ITEM NO.52

COURT NO.11

SECTION IX

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 (Civil) No(s).21823/2009

(From the judgement and order dated 14/07/2009 in
of The HIGH COURT OF BOMBAY)

WP No. 5488/2009

M/S CAFE ROYAL

Petitioner(s)

VERSUS

R.GOVINDARAJAN & ANR.

Respondent(s)

(With prayer for interim relief)

Date: 19/07/2010 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.S. SINGHVI

HON'BLE MR. JUSTICE ASOK KUMAR GANGULY

For Petitioner(s) Mr. Anup George Chaudhary, Sr.Adv.
 Mrs. June Chaudhary, Sr.Adv.
 Mr. Firasat Ali, Adv.
 Mr. Anil K. Chopra,Adv.

For Respondent(s) Mr. Vishnu Mehra, Adv.
 Mr. Sumeet Kaul, Adv.
 Mr. P.S. Johar, Adv.
 Mr. Pramod Dayal,Adv.

UPON hearing counsel the Court made the following

O R D E R

This petition is directed against order dated 14.7.2009 passed by the learned Single Judge of Bombay High Court in W.P. No.5488 of 2009, which the petitioner had filed against the direction given by the Appellate Authority constituted under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 for deposit of Rs.50 lakh with a further direction

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to furnish bank guarantee of Rs. one crore and two sureties for the remaining amount as a condition precedent for hearing the appeal filed against the order of eviction passed by the Estate Officer.

Paragraphs 4 to 8 of the impugned order read as under:

"4. In my view, the order of the City Civil Court casts a heavy burden on the petitioner, inasmuch as, it has directed the petitioner to deposit the amount at the rate of Rs.75/- per sq. ft. In several cases premises in the same building the rent has been calculated at the rate of Rs.50/- per sq. ft. by way of an interim order. The learned counsel for the petitioner brings to my notice the order passed in the case of M/s. Royals v/s R. Govindrajan & ors., in Writ Petition No.3904 of 2000.

5. In my view, therefore, it would be appropriate

to direct the petitioner to deposit the amount with the respondents at the rate of 25% of Rs.2,11,83,675/-. This amount, no doubt, does not include the interest component. The amount shall be deposited within four weeks from today.

6. The petitioner shall submit a bank guarantee of Rs.One crore. The bank guarantee shall be furnished within four weeks after depositing the aforesaid amount.

7. The petitioner shall also furnish a security for the balance amount and continue to pay the contractual rent pertaining to the suit property till the appeal is decided.

8. Any default in payment, deposit or furnishing the bank guarantee of the aforesaid amount, would lead to order of the appellate authority coming into force."

While issuing notice of the special leave petition on 7.9.2009, this Court stayed eviction of the petitioner subject to the condition of its depositing Rs.30 lacs before the Estate Officer within four weeks. The respondents were

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given liberty to withdraw that amount unconditionally.

We have heard learned counsel for the parties for some time and perused the records.

In our view, ends of justice would be served by directing the petitioner to pay 25% of Rs.2,11,83,675/-, after deducting Rupees thirty lakhs already deposited pursuant to this Court's order dated 7.9.2009, within a period of two months from today and furnish a security of Rupees one crore, other than Bank Guarantee, to the satisfaction of the Estate Officer within a period of two months.

After the petitioner complies with aforesaid conditions, the appellate authority shall hear the parties and dispose of the pending appeal in accordance with law.

The special leave petition is disposed of accordingly.

(A.D. Sharma)
Court Master

(Phoolan Wati Arora)
Court Master