

ITEM NO.29

COURT NO.9

SECTION XIV

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).22001/2008

(From the judgement and order dated 05/08/2008 in CM No. 8654/2007 in
FAO(OS) No. 211/2007 of The HIGH COURT OF DELHI AT N. DELHI)

OSWAL WOOLEN MILLS LTD.

Petitioner(s)

VERSUS

OSWAL AGRO MILLS LTD.

Respondent(s)

(With prayer for interim relief)

Date: 15/09/2008 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE R.V. RAVEENDRAN

HON'BLE MR. JUSTICE J.M. PANCHAL

For Petitioner(s) Mr. J.L. Gupta, Sr.Adv.

Mr. Pramod B. Agarwala,Adv.

Ms. Praveena Gautam, Adv.

Mr. Nitin K. Setia, Adv.

For Respondent(s) Mr. Rakesh Tikku, Adv.

Ms. Manjusha Wadhwa,Adv.

UPON hearing counsel the Court made the following
ORDER

Issue notice. Mr. Rakesh Tikku, learned counsel appears for the
caveator/respondent and waives notice.

2. The Umpire has made an award dated 21.02.2000 under which
he has directed the petitioner to pay a sum of Rs.64,65,782/- with interest
at rate of 18% per annum to the respondent from 01.11.1991 up to the
date of realisation.

3. The award was challenged by the petitioner. The learned Single
Judge of the Delhi High Court, by order dated 17.4.2007 has made the

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award a rule of the Court, subject to some modifications. He reduced the
amount payable by petitioner to Rs.57,57,130/- and also modified the
rate of interest. He directed the interest should be paid at the rate of 18%
per annum from 1.11.1991 till the date of award and at the rate of 12%
per annum on the principle amount from the date of award till date of
recovery.

4. The petitioner has challenged the order of learned Single Judge.

A Division Bench of the High Court has admitted the said appeal on 5.08.2008. The Division Bench has granted interim stay of the judgment of the learned Single Judge subject to the petitioner herein depositing within eight weeks, the principal amount and 30% of the interest amount, with liberty to the respondent to withdraw the said amount subject to furnishing security to the satisfaction of the Registrar General of the High Court.

5. The petitioner is aggrieved by non-grant of an unconditional and absolute stay. The petitioner also apprehends that if the amount is deposited by the petitioner and the same is withdrawn by the respondent and ultimately if the petitioner succeeds, he will have difficulties in realising the amount apart from the interest.

6. On the facts and circumstances, we feel that interest of justice will be served if an additional condition is imposed in regard to the permission for withdrawal of the amount by the respondent. We direct the respondent shall, in addition to furnishing security to the satisfaction of the Registrar General of the High Court, file an undertaking by way of affidavit, undertaking to redeposit the said amount with interest at the rate of 12% per annum from the date of withdrawal to date of redeposit, in the event

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of petitioner ultimately succeeding in the matter. With the said modification the special leave petition is disposed of.

7. The time granted to the petitioner by the High Court for deposit is extended by four weeks from today.

(PAWAN KUMAR)
COURT MASTER

(VIJAY DHAWAN)
COURT MASTER