

ITEM NO.5

COURT NO.2

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 (C) No(s). 24787/2010

(Arising out of impugned final judgment and order dated 02/08/2010 in WP No. 540/2010 passed by the High Court Of Bombay)

AIRPORT AUTH.OF INDIA

Petitioner(s)

VERSUS

ANWAR HAJEE A.H.C.AGBOATWALA(D)BYLRS&ORS

Respondent(s)

(with appln. (s) for permission to bring additional documents and placing addl. documents on record and interim relief and office report)

(For final disposal)

Date : 16/12/2014 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE T.S. THAKUR

HON'BLE MRS. JUSTICE R. BANUMATHI

For Petitioner(s) Mr. Maninder Singh, ASG,
Mr. Atul Nanda, Sr. Adv.
Ms. Rameeza Hakeem, Adv.
Mr. Priyadarshi Gopal, Adv.
M/s Law Associates & Co., Adv.

For Respondent(s) Dr. Kailash Chand, Adv.

Mr. Jay Savla, Adv.

Mr. Rajiv Dutta, Sr. Adv.
Mr Siddahrth Dutta, Adv.
Mr. Kumar Dushyant Singh, Adv.
Mr. Daniel George, Adv.
Mr. R. Nedumaran, Adv.

Ms. Asha Gopalan Nair, Adv.
Mr. Prashant Kenjale, Adv.
Mr. A.P. Mayee, Adv.

M/s. Law Associates, Adv.

Mr. S.Sukumaran, Adv.
Mr. Anand Sukumar, Adv.
Ms. Meera Mathur, Adv.

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

Writ Petition No. 1421 of 2007 filed by the respondents herein was allowed to be withdrawn by a Division Bench of the High Court of Judicature at Bombay by an Order dated 03.10.2007 with liberty to file a fresh petition if the occasion so arose. Writ Petition No. 540 of 2010 was thereafter filed by the respondents pursuant to the liberty reserved to them which came before another Division Bench of the said Court on 02.08.2010. While hearing the said petition for admission the High Court appears to have prima facie come to the conclusion that the respondents- writ petitioners herein were in contempt. A detailed order passed by the High Court explains the reasons for that prima facie conclusion of the Court who directed issue of notice to respondent No. 5 in the said writ petition and the Chairman of the Airport Authority of India to show cause as to why proceedings for criminal contempt of Court should not be initiated against them. It is that order which the petitioners in the present special leave petition have assailed in these petitions.

Mr. Maninder Singh, learned ASG appearing for the petitioner argued that the High Court was in error in holding no matter prima facie that the petitioners were guilty of criminal contempt of Court. Inasmuch as the High Court had overlooked certain features which Mr. Maninder Singh sought to point out in the course of his submissions, he prayed for setting aside of the order or atleast clarification that the prima facie conclusion of the High Court will not prevent the petitioners from pointing out that no case of contempt as alleged was made out against them.

On behalf of the respondent-writ petitioners before the High Court it was argued by Mr. Rajiv Dutta that the High Court was perfectly justified in arriving at the prima facie conclusion in the facts and circumstances of the case. At any rate the question whether the petitioners were in contempt was something which can and ought to be argued by them before the High Court especially when High Court has simply issued a show cause notice to them. It was submitted that the High Court could be allowed to proceed with the matter to come to a definite conclusion after the parties filed their respective pleadings not only in the writ petition but also in the proposed contempt proceedings.

There is no gainsaying that the High Court has not yet taken a final view on any of the questions that have been raised before it. All that the order passed by the High Court states is that the petitioners herein appear to be in contempt. That conclusion is only prima facie and cannot be treated to be a final expression of any opinion on the subject. Not only that based on the prima facie conclusion the High Court has simply issued a notice to the petitioner to show cause as to why the proceedings for criminal contempt should not be initiated against it. This implies that the petitioners are at liberty to go back to the High Court and place the true facts and also urge that they were in no way in contempt criminal or otherwise. To that extent therefore there is in our opinion no room for us to interfere at this stage. All that we need to say is that the prima facie conclusion shall not be treated as the final opinion of the High Court on the subject and that the High Court may after a reply is filed by the petitioners deal with the matter on its merit having regard to all the aspects that may be projected before it. We may also at this stage suggest that the High Court would do well to split the proceedings up into two distinct proceedings one dealing with the writ petition on merits and the other that may deal with the question

whether the petitioners are in contempt to avoid any confusion. It is evident that even without issuing notice in the writ petition the High Court has proceeded to issue a show cause notice in exercise of its contempt jurisdiction. The High Court may examine whether separating the two proceedings will help it avoid a possible confusion.

With the above observations we dismiss this special leave petition reserving liberty for the parties to urge all such contentions as may be open to them before the High Court at the appropriate stage. We make it clear that the notice issued by the High Court shall not be interpreted to mean that the same requires the personal attendance of the petitioners before the Court. This order will not however prevent the High Court from requiring the presence of both or any one of the contemnors in future should such presence be considered necessary in which case the High Court may make a specific order to that effect.

(Shashi Sareen)
Court Master

(Renuka Sadana)
Court Master