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SLP(C)No. 1121 OF 2005

ITEM No.26

Court No. 1

SECTION XVI

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.1121/2005
(From the judgement and order dated 03/09/2004 in CO 2156/04
of The HIGH COURT OF CALCUTTA)

PARTHA SARATHI DAWN

Petitioner (s)

VERSUS

BHABESH CHANDRA BOSE & ORS.

Respondent (s)

(With Appln(s). for exemption from filing O.T. and with prayer for interim relief)

Date : 28/01/2005 This Petition was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE H.K. SEMA
HON'BLE MR. JUSTICE G.P. MATHUR

For Petitioner (s)Mr. Gopal Subramanium, Sr. Adv.
Mr. Sunil Mathew, Adv.
Mr. Rajesh Prasad Singh,Adv.

For Respondent (s) No.2/Mr. U U Lalit, Sr. Adv.
Caveator(s)Mr. Pijush K Roy, Adv.
Mr. Tapash Sinha, Adv.
Mr. G Ramakrishna Prasad, Adv.

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

Heard the learned senior counsel for the petitioner as also the learned senior counsel for respondent No.2, present on caveat. The impugned order dated 3.9.2004 is only an interim order which is intended to remain in operation only during the hearing of appeal pending before the District Judge under Order 43 Rule 1 of the Code of Civil Procedure. The learned Single Judge while passing the impugned order has directed the appeal itself to be heard on the next appointed date (which was 22nd September, 2004) and to dispose of the appeal as expeditiously as possible, preferably within a period of two months thereafter. We are told at the Bar that the appeal has not been yet heard and decided because the petitioner herein himself took an adjournment. We do not think that the petitioner can have any cause for grievance against the impugned order which is intended to remain in operation only for a limited period. Needless to say, the appeal is to be heard and decided by the appellate court on its own merits uninfluenced by any of the observations made in the impugned order or any other order passed at any interim stage of the proceedings. We also expect the appellate court to decide the appeal expeditiously now and within a period of two months from the date this order is brought to its notice. The learned counsel for the parties present before us have assured to argue the appeal without seeking any adjournment. Till then and from today, we direct that no third party interest shall be created by respondent No. 2-M/s. Sovania Construction Co. The special leave petition stands disposed of in the above terms.

(D. P. WALIA)
COURT MASTER

(RADHA R. BHATIA)
COURT MASTER