

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(s).23369/2008

(From the judgment and order dated 28/07/2008 in RFA No. 46/2006  
of The HIGH COURT OF DELHI AT NEW DELHI)

JAMMU & KASHMIR BANK LTD. Petitioner(s)

VERSUS

M/S SHREE DIGVIJAY CEMENT CO.LTD. Respondent(s)

(With prayer for interim relief and office report)(FOR FINAL DISPOSAL)

WITH  
SLP(C) NO. 668 of 2009 - with appln. for exemption from filing c/c of  
the impugned judgment and with prayer for interim relief and office  
report (For final disposal)

Date: 06/04/2010 This Petition was called on for hearing today.

CORAM :  
HON'BLE MR. JUSTICE B. SUDERSHAN REDDY  
HON'BLE MR. JUSTICE SURINDER SINGH NIJJAR

For Petitioner(s) Mr. Vijay Hansaria, Sr.Adv.  
Mr. G.M. Kawoosa, Adv.  
Ms. Sneha, Adv.  
Mr. N. Ganpathy,Adv.  
  
Mr. M.L. Lahoty, Adv.  
Mr. Paban K. Sharma, Adv.  
Mr. Himanshu Shekhar, Adv.  
Ms. Gargi Bhatta Baruli, Adv.

For Respondent(s) Mr. M.L. Lahoty, Adv.  
Mr. Paban K. Sharma, Adv.  
Mr. Himanshu Shekhar, Adv.  
Ms. Gargi Bhatta Baruli, Adv.  
  
Mr. Vijay Hansaria, Sr.Adv.  
Mr. G.M. Kawoosa, Adv.  
Ms. Sneha, Adv.  
Mr. N. Ganpathy,Adv.

-2-

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

SLP(C) No. 23369 of 2008:  
Leave granted.  
The appeal is allowed. There shall be no order as to costs.

SLP(C) No. 668 of 2009:  
In view of the order passed in Civil Appeal No.....of 2010 @  
SLP(C) No. 23369 of 20089 the Special Leave Petition shall stand  
dismissed.

(S. Thapar)  
P.S. to Registrar

(Vijay Dhawan)  
Assistant Registrar

The signed order is placed on the file.  
IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 3140 OF 2010  
(Arising out of SLP(C) No.23369 OF 2008)

JAMMU & KASHMIR BANK LTD.

...APPELLANT (S)

VERSUS

M/S SHREE DIGVIJAY CEMENT CO.LTD.

...RESPONDENT(S)

WITH  
S.L.P.(C) NO. 668 OF 2009

O R D E R

SLP(C) NO. 23369 OF 2008

Leave granted.

We have heard the learned counsel appearing for the parties.

The High Court in the impugned order found that triable issues do arise for the consideration of the Court in the Summary Suit filed by the respondent against the appellant. However, the High Court while granting leave to the appellant restricted the leave to the question of limitation only. In our considered opinion, the High Court, having granted leave, ought not to have restricted the defence of the appellant on the question of limitation alone. We also find it difficult to sustain the view taken by the High Court directing the appellant-bank to deposit the decretal amount as a precondition for grant of leave to defend the Suit. The High Court ought not to have directed the bank to deposit the decretal amount more particularly having found that triable issues do arise in the Suit.

-2-

For the afore-stated reasons, the impugned order of the High Court is modified. Consequently, the appellant shall be entitled to take all the pleas that may be available to it in law and on facts. Thus, accordingly unconditional leave is granted to the appellant to defend the suit.

The impugned order shall accordingly stand modified. We,  
however, request the High Court to dispose of the Suit as  
expeditiously as possible preferably within one year.

The Civil Appeal is accordingly disposed of. There shall  
be no order as to costs.

SLP(C) NO. 668 of 2009

In view of the order passed in Civil Appeal No.....of  
2010 @ SLP(C) No. 23369 of 20089 the Special Leave Petition shall  
stand dismissed.

.....J.  
[ B. SUDERSHAN REDDY ]

.....J  
[ SURINDER SINGH NIJJAR ]

New Delhi,  
April 06, 2010