

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.8 OF 2016

(Arising out of S.L.P.(C) No.24748 of 2007)

Board of Trustees of The Port  
of Kolkata

Appellant(s)

Versus

M/s. Behera Brothers

Respondent(s)

O R D E R

Leave granted.

This Court on 15<sup>th</sup> January, 2009, had passed the following order:

"Mr. Kailash Vasdev, learned senior counsel, appearing on behalf of the respondents submits that since the subject-matter of this special leave petition is mainly concerned with the amount of enhanced rent payable for the premises in question, an opportunity may be given to the parties to sit together and try to work out their differences.

Having regard to the above and since there is substance in his submission, let this matter be adjourned for six weeks for the present, to enable the parties to try and arrive at a settlement.

Let the matter not be treated as heard in part by this Bench and be placed before the Regular Bench henceforth.

In the meantime, it is stated by Mr. Vasdev that the respondents will not proceed with the pending suit."

As it seems, lot of water has flown in the river Ganges from that day, but possibly there has been no conceivable effort between the parties to arrive at a settlement. Be that as it may.

As the factual matrix would show, the respondent filed a suit challenging the revision of rent on many a ground. The appellant-Board had revised the rent by enhancing it by 5.1% commencing vide Notification dated 19<sup>th</sup> September, 1996, with effect from 19<sup>th</sup> September, 1997. Be it noted, there are two properties and both the properties are being used for ware-housing purposes. We are not stating on what ground the respondent had filed the suit. Suffice it to mention that in the suit, an application under Order XXXIX Rules 1 and 2 has been filed restraining the Board from interfering with the possession, giving effect to termination orders or to take any steps for eviction. A question with regard to jurisdiction of the civil court has been adverted to by the High Court, but we do not intend to enter into the said arena and, therefore, the issue of law in that regard is kept open.

In our considered opinion, the controversy can be put to rest by issuing the following directions:-

(a) The enhanced rent shall be paid by the respondent to the Board, the appellant herein, within a span of three years commencing 5<sup>th</sup> March, 2016.

(b) The differential amount excluding the interest shall be forwarded by the Board to the respondent within three weeks hence.

(c) The instalments that have been fixed by us shall be proportionate to the amount demanded and there should not be any kind of deviation in that regard. Needless to say, this arrangement is made for arrears which is from 1997 till date. Needless to say, the respondent has been paying the undisputed amount. The proportional instalment shall be paid along with un-controverted amount commencing 5<sup>th</sup> March, 2016.

(d) The respondent shall not be evicted for the purpose of non-payment of rent which includes the differential sum.

(e) The rent that has been enhanced and which has to be paid by first week of February, 2016, shall be paid as the enhanced rent apart from the proportional rent which is fixed with regard to the arrears commencing 5<sup>th</sup> March, 2016. Needless to say, we are granting one month moratorium to the respondent.

In view of the aforesaid order, the civil suit filed by the respondent shall be deemed to have been disposed of.

The appeal is, accordingly, disposed of. No order as to costs.

.....J.  
(Dipak Misra)

.....J.  
(Shiva Kirti Singh)

New Delhi;  
January 04, 2016.

ITEM NO.204

COURT NO.4

SECTION XVI

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.24748/2007

(Arising out of impugned final judgment and order dated 16/08/2007 in FMAT No. 4567/2006,16/08/2007 in FMA No. 126/2007,16/08/2007 in CAN No. 8809/2006 passed by the High Court of Calcutta)

BOARD OF TRUSTEES OF THE PORT OF KOLKATA

Petitioner(s)

VERSUS

M/S. BEHERA BROTHERS

Respondent(s)

(For final disposal)

Date : 04/01/2016 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE DIPAK MISRA  
HON'BLE MR. JUSTICE SHIVA KIRTI SINGH

For Petitioner(s) Mr. Parag P. Tripathi, Sr. Adv.  
Mr. A. V. Rangam, AOR  
Mr. Buddy A. Ranganadhan, Adv.

For Respondent(s) Mr. Kailash Vasdev, Sr. Adv.  
Mr. Siddhartha Chowdhury, AOR

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

Leave granted.

The appeal is disposed of in terms of the signed  
order.

(Chetan Kumar)  
Court Master

(H.S. Parasher)  
Court Master

(Signed order is placed on the file)