

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 (Civil) No(s).1 3 1 4 / 2 0 0 7

(From the judgement and order dated 0 4 / 0 8 / 2 0 0 6 in CMAA No. 9 9 / 2 0 0 5 of The  
HIGH C O U R T O F J U D I C A T U R E AT ALL A H A B A D)

SAN J A Y SHA R M A & O R S. Petitioner(s)

V E R S U S

KANAK SHA R M A & O R S. Respondent(s)

(With prayer for interim relief and office report )

Date: 0 8 / 1 0 / 2 0 0 7 This Petition was called on for hearing today.

C O R A M :

HON'BLE MR. JUS T I C E H.K. S E M A  
HON'BLE MR. JUS T I C E P. SATH A S I V A M

For Petitioner(s) Mr. Jitendr a Mohan Shar m a ,Adv.  
Mr. Ajit Shar m a , Adv.

For Respondent(s) Mr. Uday U. Lalit, Sr. Adv.  
Mr. Arvind Var m a , Adv.  
Mr. Sidharth Dave, Adv.  
Ms. Malik a Chaudha ry, Adv.  
Mr. T. Mahipal, Adv.

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

Leave granted.

Appeal is disposed of in terms of the signed order.

( Ravi P. Verm a ) ( Anand Singh )  
Court Master Court Master

[Signed order is placed on the file]

I N T H E S U P R E M E C O U R T O F I N D I A

C I V I L A P P E L L A T E J U R I S D I C T I O N

C I V I L A P P E A L N O. 4 7 4 3 O F 2 0 0 7

[Arising out of SL P (C)No. 1 3 1 4 / 2 0 0 7 ]

SAN J A Y SHA R M A & O R S. ....A P P E L L A N T ( S )

Versus

SMT. KANAK SHA R M A & O R S. ....R E S P O N D E N T ( S )

O R D E R

Leave granted.

Dispute in this appeal is with regard to the appointment of arbitrator. In an application filed under Section 11(6) of the Arbitration & Conciliation Act, 1996, the learned Chief Justice of the Allahabad High Court has appointed an arbitrator by a cryptic order dated 4/8/2006.

The order reads as under:-

"For the purpose of acting as umpire in this matter, Hon'ble S.C. Verma of 4/108 Lowther Road, Allahabad, retired judge of this Hon'ble Court is hereby nominated and appointed."

It appears to us that the power has been exercised without application of mind and contrary to the judgment of this Court rendered in SB P & Co. Vs. Patel Engineering Ltd. & Anr., (2005) 8 SCC 618. An application being filed by the

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appellant for recall of the earlier order was also dismissed by learned Chief Justice by its order dated 10/11/2006. Aggrieved thereby, this appeal has been filed by special leave.

Prima facie we are of the view that both the orders passed by learned Chief Justice is not sustainable in law.

On 6/9/2007, this Court put a suggestion to counsel on both the sides that in order to shorten the litigation if a named arbitrator could be suggested to be appointed as arbitrator by this Court. Counsel on both the sides could not come to a consensus on the name of the arbitrator. Situated thus, we hereby appoint Hon'ble Dr. Justice A.S. Anand, former Chief Justice of this Court as an arbitrator. The arbitrator is at liberty to fix his own terms and conditions and place of sitting. A copy of this order be sent to Hon'ble Dr. Justice A.S. Anand, former CJI.

Appeal is disposed of in the above terms.

.....J .  
( H.K. S E M A )

New Delhi;  
October 08, 2007 .

.....J .  
( P. SATHASIVAM )