

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Crl) No(s).422/2008

(From the judgement and order dated 02/08/2007 in CRLA No. 668/2001 of the HIGH COURT OF MADRAS)

M/S. HARYANA STATE COOP SUP. & MKT FED. LTD.

Petitioner(s)

VERSUS

SHREE OLIVE FABRICS & ANR.

Respondent(s)

(With appln(s) for stay, permission to file additional documents and office report) (FOR FINAL DISPOSAL)

WITH

SLP(Crl) NO. 436 of 2008
(With application for stay and office report)
(FOR FINAL DISPOSAL)SLP(Crl) NO. 444 of 2008
(With application for stay and office report)
(FOR FINAL DISPOSAL)SLP(Crl) NO. 462 of 2008
(With application for stay and office report)
(FOR FINAL DISPOSAL)SLP(Crl) NO. 545 of 2008
(With application for stay and office report)
(FOR FINAL DISPOSAL)SLP(Crl) NO. 563 of 2008
(With application for stay and office report)
(FOR FINAL DISPOSAL)SLP(Crl) NO. 574 of 2008
(With application for stay and office report)
(FOR FINAL DISPOSAL)SLP(Crl) NO. 576 of 2008
(With application for stay and office report)
(FOR FINAL DISPOSAL)

Date: 04/12/2008 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S.B. SINHA
HON'BLE MR. JUSTICE CYRIAC JOSEPH

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For Petitioner(s) Mr. Umang Shankar, Adv.
Mr. Sanjay Singh, Adv.
Mr. Ugra Shankar Prasad, Adv.For Respondent(s) Mr. M.A. Krishnamurthy, Adv.
Mr. M.A. Chinnasamy, Adv.
Mr. K. Ksishna Kumar, Adv.

Mr. Mukesh Sharma, Adv.
Mr. Rameshwar Prasad Goyal, Adv.

UPON hearing counsel the Court made the following
ORDER

S.L.P.(C) Nos. 462, 545, 563, 574 & 576 OF 2008:

One of the contentions raised before us is as to whether in view of Section 142(1)(a) of the Negotiable Instruments Act, 1881, an officer authorised by the Managing Director of the petitioner - State Cooperative Supply & Marketing Federation Ltd. could have lodged a complaint against the respondents herein for commission of an offence under Section 138 of the Negotiable Instruments Act.

A finding of fact has been arrived at by the learned Trial Judge that the power of attorney executed by the Managing Director of the petitioner Federation in favour of one Shri Devendra Kumar had not been proved.

Learned counsel appearing on behalf of the petitioner has placed before us a resolution of the Board of Directors of the petitioner-Federation, dated 15.4.2006, in terms whereof the Managing Director was authorised to execute General Power of Attorney in favour of any person or an officer. However, admittedly, the said purported resolution dated 15.4.2006 was not filed before the learned Trial Judge or any other statutory authority.

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When questioned as to why in exercise of our jurisdiction under Article 142 of the Constitution of India, we should not remit the matter back to the Trial Court for taking the said resolution vis-a-vis the Power of Attorney in evidence, the learned counsel for the respondents stated that payments have been made subsequently in the aforementioned cases.

Our attention has been drawn to the Judgment of the learned Trial Judge that, in fact, even such an issue had been raised before the learned Trial Judge, which reads:

"Whether subsequent payment of the entire cheque amount will absolve the accused of criminal liability."

In view of the fact that payments have admittedly been made subsequently by the respondent - company, we are of the opinion that these are not fit cases where we should exercise our discretionary jurisdiction under Article 136 of the Constitution of India. The special leave petitions are dismissed accordingly.

S.L.P.(C) Nos. 422, 436 & 444 OF 2008:

Learned counsel for the petitioner produces before us an award of an Arbitral Tribunal dated 9.9.1997, in terms whereof an award for a sum of Rs.10,46,671/- has been made in favour of the petitioner. Out of the said total liability, the respondent is said to have paid Rs. 8,57,547/- as admitted by the claimant-petitioner. It is stated that the balance amount of Rs.1,89,104/-, along with interest at the rate of 14% per annum, has also been paid.

Learned counsel states that in fact an appeal preferred by the petitioner - Federation against the said award has also been dismissed. Let an affidavit to that effect be filed within one week.

List these matters after one week.

(A.S. BISHT)
MASTER

COURT MASTER

(PUSHAP LATA BHARDWAJ) COURT