

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL 644 of 2020  
(Arising out of SLP(C) No. 455 of 2020)

DONTI SUDHAKAR REDDY

...APPELLANT

VERUS

M/S. VISWASRI RELATORS AND ORS.

...RESPONDENTS

O R D E R

Issue notice.

Ms. S. Thananjayan, learned advocate accepts notice on behalf of the caveator.

Leave granted.

Heard learned counsel for the appellant as well as the caveator's advocate.

By the impugned order, the High Court has directed the appellant to deposit additional sum of Rs.28,07,550.50 ps. within four weeks so as to make it equivalent of 50% of the decretal amount.

The records reveal that the suit for recovery of money was filed for a sum of Rs.50,06,268/- plus interest. The suit was decreed with interest thereon. The appellant herein filed an appeal before the High Court. At the time of consideration of an application for stay, the High Court directed the appellant to deposit 50% of the decretal amount. Thereafter the appellant filed an application for modifying the said interim order on the ground

that it is financially not possible for him to deposit 50% of the decretal amount. Accepting the said submissions of the appellant, the High Court, by interim order dated 18.12.2018, directed the appellant to deposit Rs.23 lakhs only by 27.01.2019. Subsequently by another order, time to pay was extended. The appellant, accordingly, deposited the said amount within the extended period. The entire amount of Rs.23 lakhs was ordered to be disbursed in favour of the respondent without any security. Subsequently, one more application was filed by the respondent praying for a direction to the appellant to deposit Rs.28,07,550.50 ps. i.e. to make it equivalent to 50% of the decretal amount. Though, the High Court had initially accepted the submissions made by the appellant that it was financially not possible for him to deposit the 50% of the decretal amount as an interim measure, again directed the appellant to deposit Rs. 28,07,550.50 ps.

The High Court, instead of modifying its earlier interim order that too without any valid reason, could have proceeded to hear the appeal itself. In our opinion, the Division Bench was not justified in modifying the discretionary order passed by the earlier Division Bench. It is not open for the parties to seek interim orders repeatedly before different Benches merely because there is change in the combination of the Bench.

The reasons assigned by the High Court while passing such order are unacceptable. The lack of Judges' strength in the High Court cannot be made as a ground for modifying the interim order earlier granted by a different Bench. We also find that the High Court has made certain observations touching the merits of the

matter. We are of the considered opinion that the High Court could not have reviewed its earlier interim order under the facts and circumstances of the case. Accordingly, the impugned order stands set aside. The appeal is allowed. The High Court is requested to expedite the hearing of the appeal.

.....J.  
[MOHAN M. SHANTANAGODAR]

.....J.  
[R. SUBHASH REDDY]

New Delhi;  
January 24, 2020

ITEM NO.19

COURT NO.12

SECTION XII-A

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(s). 455/2020  
(Arising out of impugned final judgment and order dated 03-12-2019  
in IA No. 3/2019 passed by the High Court For The State Of  
Telangana At Hyderabad)

DONTI SUDHAKAR REDDY

Petitioner(s)

VERSUS

M/S. VISWASRI REALTORS &amp; ORS.

Respondent(s)

(FOR ADMISSION and I.R. )

Date : 24-01-2020 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE MOHAN M. SHANTANAGOUDAR  
HON'BLE MR. JUSTICE R. SUBHASH REDDY

For Petitioner(s) Mr Somiran Sharma, Adv.  
Mr. R. Chandra Shekar Reddy, Adv.  
Ms. R. Madhavi Reddy, Adv.  
Mr. Biju P Raman, AOR

For Respondent(s) Mr. S. Thananjayan, AOR

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

Issue notice.

Ms. S. Thananjayan, learned advocate accepts notice on behalf  
of the Caveator.

Leave granted.

The appeal is allowed in terms of the signed order.

Pending application(s), if any, stands disposed of  
accordingly.

(ASHWANI THAKUR)  
COURT MASTER (SH)

(R.S. NARAYANAN)  
COURT MASTER (NSH)

(Signed order is placed on the file)