

ITEM NO.1502

Court 3 (Video Conferencing)

SECTION XVII

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

Civil Appeal No(s). 323/2021

ASSET RECONSTRUCTION COMPANY (INDIA) LIMITED

Appellant(s)

VERSUS

BISHAL JAISWAL & ANR.

Respondent(s)

WITH

C.A. No. 3228/2020 (XVII)

(IA No.94716/2020-EXEMPTION FROM FILING C/C OF THE IMPUGNED
JUDGMENT and IA No.94715/2020-STAY APPLICATION and IA
No.109513/2020-PERMISSION TO FILE ADDITIONAL
DOCUMENTS/FACTS/ANNEXURES..)

C.A. No. 3765/2020 (XVII)
(FOR EX-PARTE STAY ON IA 119915/2020)

C.A. No. 3/2021 (XVII)
(FOR ADMISSION and IA No.215/2021-PERMISSION TO FILE ADDITIONAL
DOCUMENTS/FACTS/ANNEXURES)

SLP(C) No. 1168/2021 (XVI)
(FOR ADMISSION and I.R. and IA No.9964/2021-EXEMPTION FROM FILING
AFFIDAVIT and IA No.9962/2021-PERMISSION TO FILE ADDITIONAL
DOCUMENTS/FACTS/ANNEXURES)

Date : 15-04-2021 These appeals were called on for pronouncement of
judgment today.

For Appellant(s)

Mr. Sanjay Bhatt, Adv.
Mr. Sumit Nagpal, Adv.
Ms. Akansha Srivastava, Adv.
Mr. Rabin Majumder, AOR

Mr. Mukul Rohatgi, Sr. Adv.
Mr. Sanjay Kapur, AOR
Mr. V.M. Kannan, Adv.
Ms. Megha Karnwal, Adv.
Mr. Arjun Bhatia, Adv.

Mr. sidhartha Barua, Adv.
Ms. Adity Gupta, Adv.
Ms. Jasmine Damkewala, AOR
Mr. Praful Jindal, Adv.
Ms. Ritika, Adv.
Ms. Vaishali Sharma, Adv.
Mr. Dinesh Chander Trehan, Adv.

Mr. Ramji Srinivasan, Sr. Adv.

Mr. abhirup Dasgupta, Adv.
Mr. Ishaan Duggal, Adv.
Ms. Bhawana Sharma, Adv.
Ms. Rajshree Chaudhary, Adv.
Mr. Mohit D. Ram, AOR

For Respondent(s) Mr. Kaushik Poddar, AOR

Mr. Parmatma Singh, AOR

Mr. Sanjeev Kumar, Adv.
Mr. Anshul Sehgal, Adv.
Mr. Faisal Sherwani , AOR

Mr. Soayib Qureshi, AOR

Mr. C.A. Sundaram, Sr. Adv.
Mr. Abhijeet Sinha, Adv.
Mr. Zafar Inayat, Adv.
Ms. Rohini Musa, Adv.
Mr. Abhishek Gupta, Adv.
Mr. Aditya Shukla, Adv.
Ms. Pallavi Pratap, AOR
Ms. Pallavi Pratap, AOR

Mr. Mukund P. Unny, Adv.
Sriram Parakkat, AOR
Mr. Sreenath S., Adv.

Hon'ble Mr. Justice Rohinton Fali Nariman pronounced the reportable judgment of the Bench consisting of His Lordship, Hon'ble Mr. Justice B.R. Gavai and Hon'ble Mr. Justice Hrishikesh Roy.

The operative parts of the judgment read as follows :-

"Civil Appeal No. 323 of 2021

On the facts of this case, the NCLT, by its judgment dated 19.02.2020, recorded that the default in this case had been admitted by the corporate debtor, and that the signed balance sheet of the corporate debtor for the year 2016-2017 was not disputed by the corporate debtor. As a result, the NCLT held that the Section 7 application was not barred by limitation, and

therefore, admitted the same. We have already set aside the majority judgment of the Full Bench of the NCLAT dated 12.03.2020, and the impugned judgment of the NCLAT dated 22.12.2020 in paragraphs 33 and 34. This appeal is, therefore, allowed, and the matter is remanded to the NCLAT to be decided in accordance with the law laid down in our judgment.

Civil Appeal No.3 of 2021

We have already set aside the Full Bench judgment dated 12.03.2020 in Civil Appeal No.323 of 2021. Given the argument of Shri Dolia that service was not properly effected upon the respondents, it would be in the fitness of things to send the matter back to the NCLT for a *de novo* hearing. Parties are allowed to amend their pleadings, if necessary. The Civil Appeal is allowed in the aforesaid terms.

Civil Appeal No.3765 of 2020

There can be no doubt whatsoever that the appellant has been completely remiss and deficient in pleading acknowledgement of liability on the facts of this case. However, given the staggering amount allegedly due from the respondents, we afford one further opportunity to the appellant to amend its pleadings so as to incorporate what is stated in the written submissions filed by it before the NCLAT, subject to costs of Rs.1,00,000/- to be paid by the appellant to the respondents within a period of four weeks from today.

We, therefore, allow the appeal, set aside the judgment of the NCLAT dated 14.10.2020, and restore the appeal to the file to be decided in light of our judgment in Civil Appeal No. 323 of 2021.

Interim order passed by this Court on 16.12.2020 stands vacated.

Civil Appeal No.3228 of 2020

As decided by us in Civil Appeal No.323 of 2021, we give one more opportunity to the

appellant in this case to amend its pleading on payment of costs of Rs.1,00,000/- to the respondents within four weeks from today. The NCLAT judgment dated 07.02.2020 is set aside and the matter is remanded to the NCLAT to decide the matter afresh in accordance with the law laid down in Civil Appeal No.323 of 2021.

Civil Appeal arising out of SLP (Civil) No.1168 of 2021

Leave granted.

Given the judgment delivered in Civil Appeal No.323 of 2021, the impugned judgment in this appeal also deserves to be set aside. The appeal is, therefore, allowed. If the respondent wishes to file an appeal before the NCLAT against the orders of the NCLT dated 19.08.2019 and 20.02.2020, it may do so within a period of four weeks from the date of this judgment. The appeal will thereafter be decided on its merits, keeping in view the statement of the law laid down in Civil Appeal No.323 of 2021."

Pending applications, if any, stand disposed of accordingly.

(GULSHAN KUMAR ARORA)
AR-CUM-PS

(ANITA RANI AHUJA)
ASSISTANT REGISTRAR

(Signed reportable judgment is placed on the file)