

ITEM NO.6 Court 14 (Video Conferencing) 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). 13029/2021

(Arising out of impugned final judgment and order dated 26-04-2021 in WA No. 149/2020 passed by the High Court For The State Of Telangana At Hyderabad)

RESOLUTION PROFESSIONAL, C & C CONSTRUCTIONS LIMITED PETITIONER(S)

VERSUS

BSCPL INFRASTRUCTURE LIMITED & OTHERS RESPONDENT(S)

(FOR ADMISSION and I.R. and IA No.104703/2021-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.104704/2021-EXEMPTION FROM FILING NOTARIZED AFFIDAVIT)

Date : 17-09-2021 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE AJAY RASTOGI
HON'BLE MR. JUSTICE ABHAY S. OKA

For Petitioner(s) Mr. Pulkit Deora, Adv.
Mr. Udit Gupta, Adv.
Mr. Anup Jain, Adv.
M/S. Udit Kishan And Associates, AOR

For Respondent(s) Mr. Niranjana Reddy, Sr. Adv.
Mr. Tarun G. Reddy, Adv.
Ms. Pritha Srikumar Iyer, AOR
Ms. Vasudha Sharma, Adv.
Ms. Neha Mathen, Adv.

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

Mr. Niranjana Reddy, learned Senior Counsel appearing on behalf of Ms. Pritha Srikumar Iyer, learned Advocate-on-Record for the Caveator, accepts notice on behalf of the respondent No.1.

Heard learned counsel for the parties.

In Writ Petition No. 19924/2019 pending before the Learned Single Judge of the High Court of Telangana an interim order came to be passed on 08.01.2020. The operative portion of the order dated 08.01.2020 is quoted as under:

"In that view of the matter, any hindrance with respect to the affairs of the Joint Venture company would not be either in the interests of the Joint Venture or any of the partners of the Joint Venture.

However, since the matter requires further detailed hearing, for the present, in view of the undertaking filed by the Authorized Representative of the petitioner company, it is directed that the affairs of the Joint Venture shall be carried out strictly in accordance with the terms of the Joint Venture.

The petitioner has filed an undertaking before this Court which reads as under:

a) The petitioner undertakes that the funds in all the Bank Accounts of the BSC - C&C Joint Venture (JV) would only be used for the projects/works being undertaken by the JV and would not be used for any other purpose.

b) The petitioner undertakes that the Resolution Professional would be given full access to the books of accounts as well as the statements of the JV, including all the expense statements and documents pertaining to the use of funds from the accounts of the JV.

c) The petitioner further undertakes that the petitioner will abide by the terms and conditions of the Joint Venture Agreement dated 17.09.2010 and ensure that no steps will be taken in breach of the said Agreement.

The undertaking is made part of the record. In that view of the matter, there shall be interim directions as prayed for.

The petitioner before making any payments other than payments in usual course, i.e. payment to suppliers for supplying material, running business, etcetera, it shall give two days' notice to Resolution Professional representing the Joint Venture, who shall be entitled to express their views/objections thereon."

The interim order dated 08.01.2020 of the learned Single Judge was challenged in the Writ Appeal No. 149/2020 before the Division Bench of the High Court at the instance of the present petitioner, which came to be dismissed by the order impugned dated 26.04.2021, is the subject matter of challenge in the present Special Leave Petition.

After we have heard the learned Counsel for the parties, we consider it appropriate to clarify/modify the interim order dated 08.01.2020 passed by the learned Single Judge in Writ Petition No. 19924/2019 to the following extent:

"that all payments which are made shall be subject to notice of seven days to the Resolution Professional, who shall be entitled to express views/objections and that may be given its due precedence before taking further action in the matter."

We further make it clear that the parties are at liberty to raise all questions including maintainability of the Writ Petition, if any, in the pending Writ Petition.

With the aforesaid clarifications, we dispose of the Special Leave Petition with a request to the High Court to hear the pending Writ Petition No. 19924/2019 as expeditiously as possible, but in no case later than three months.

Pending application(s), if any, shall stand disposed of.

(POOJA SHARMA)
COURT MASTER (SH)

(BEENA JOLLY)
COURT MASTER (NSH)