

ITEM NO.29                      Court 13 (Video Conferencing)                      SECTION IX  
 S U P R E M E C O U R T O F I N D I A  
 RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No(s). 15553/2017

(Arising out of impugned final judgment and order dated 03-04-2017 in APP No. 947/2003 passed by the High Court Of Judicature At Bombay)

M/S DIVYA INTERNATIONAL L.L.C. & ORS.                      Petitioner(s)

VERSUS

ALLAHABAD BANK & ORS.                      Respondent(s)

(FOR PERMISSION TO FILE LENGTHY LIST OF DATES ON IA 41917/2017 IA No. 41916/2017 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

Date : 26-11-2021 This matter was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE M.R. SHAH  
 HON'BLE MRS. JUSTICE B.V. NAGARATHNA

For Petitioner(s) Mr. Anish R. Shah, AOR (Not connected)

For Respondent(s) Mr. Rajesh Kumar Gautam, AOR  
 Mr. Anant Gautam, Adv.  
 Mr. Nipun Sharma, Adv.  
 Mr. Ravi Solanki, Adv.

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

Feeling aggrieved and dissatisfied with the impugned judgment and order passed by the High Court of Judicature at Bombay dated 03.04.2017 in Appeal No. 947 of 2003, the original plaintiffs have preferred the present Special Leave Petition.

At the outset, it is required to be noted that a limited notice has been issued by this Court so far as the direction contained in clause (f) of para 20 of the impugned order. Clause (f) of para 20 of the impugned judgment reads as under:-

"The amount withdrawn by Respondent No.1 to 3 be

deposited in the Court within a period of six weeks with interest at the bank rate as of today. Liberty is granted to the Appellant to apply for withdrawal of the re-deposited amount, with due notice to the parties."

Learned counsel appearing on behalf of the petitioner is not connected. We have heard Mr. Rajesh Kumar Gautam, learned counsel appearing on behalf of the respondent-Bank. He has fairly conceded that let the amount withdrawn by the petitioners herein be deposited in the Court with interest at the bank rate and the same may be invested by the Court in the High Court and the said amount be kept in an interest bearing account/Fixed Deposit so that the said amount can be appropriated as per the final judgment and decree in the Suit.

In that view of the matter and even otherwise we are of the opinion that considering the fact that the petitioners herein withdrew the decretal amount pursuant to the decree passed by the High Court and the said decree has been set aside by the High Court and the summary Suit is now converted into a regular Suit, as a consequence the petitioners have to re-deposit the amount already withdrawn. However, at the same time, even the respondent-Bank - original defendant No.1 be also not permitted to withdraw the re-deposited amount and the same may be continued to be deposited/invested by the High Court.

In that view of the matter, we modify the impugned judgment and order passed by the High Court and para 20(f) of the impugned judgment and order is substituted as under:

"The amount withdrawn by Respondent Nos. 1 to 3 be deposited in the Court within a period of six weeks

with interest at the bank rate as of today. The said amount be invested by the Registry/High Court in a fixed deposit carrying interest so that whoever succeeds in the Suit, subject to preferring the Appeal, the said amount can be appropriated/adjusted as per the decree that may be passed by the High Court."

The present Special Leave Petition stands disposed of accordingly.

Pending applications, if any, also stand disposed of.

(R. NATARAJAN)  
ASTT. REGISTRAR-cum-PS

(NISHA TRIPATHI)  
BRANCH OFFICER