

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.9250/2017
[@ SLP (C) NO.17983/2010]

WAX OIL P.LTD.& ORS.

Appellants

VERSUS

ANKINI PETROCHEM LTD.

Respondent

O R D E R

Leave granted.

We have heard learned counsel for the appellants.

Despite service of notice, nobody has appeared on behalf of the respondent.

The present appeal has been filed against the order dated 18.06.2010 passed by the learned Single Judge of the High Court of Gujarat at Ahmedabad wherein the learned Single Judge has dismissed the Special Civil Application No.6955/2010 filed by the appellants on the ground that the Advocate who had appeared before the High Court ought to have filed an Application in Civil Revision Application No.909/1999 seeking permission to amend it into Special Civil Application in the year 2010 when the Code of Civil Procedure was amended.

It may be mentioned here that before the learned Single Judge in order dated 14.05.2010 in Civil Revision Application No.909/1999, learned Advocate on behalf of the appellants had sought permission to withdraw the Civil Revision Application with liberty to file Special Civil Application under Article 227 of the Constitution of India, challenging the order

impugned in Civil Revision Application, which leave was granted with liberty to file Special Civil Application. Relevant part of the order dated 14.05.2010 passed by the learned Single Judge in Civil Revision Application No.909/1999 is reproduced herein below:

"2. In view of the above, present Civil Revision Application is dismissed as withdrawn with above liberty. As and when such Special Civil Application is filed challenging the order impugned in the present Civil Revision Application, the same shall be considered in accordance with law and on merits. Interim relief granted by this Court vide order dated 21.10.1999 in the present Civil Revision Application is directed to be continued till 21.06.2010 so as to enable the petitioners to obtain appropriate order in the Special Civil Application to be filed. If by that time, Special Civil Application is not filed and/or no order is obtained from the Court in the Special Civil Application, the interim relief shall not be continued. Present Civil Revision Application is dismissed as withdrawn with above liberty and observations."

From a perusal of the impugned order dated 18.06.2010, out of which the present Appeal arises, we find that the learned Single Judge had only quoted paragraph 1 of the order dated 14.05.2010 whereas the contents of paragraph 2 were ignored which granted liberty to the appellants to file Special Civil Application.

It may be pointed out here that the learned Single Judge allowed the appellants to withdraw Civil Revision Application on 14.05.2010 and the Special Civil Application was filed on

17-18.06.2010 i.e. within a period of one month approximately.

Taking into consideration all these facts, we are unable to uphold the order dated 18.06.2010 passed in SCA No.6955 of 2010 by the High Court.

Accordingly, we set aside the impugned order dated 18.06.2010 and remand the matter back to the High Court for deciding the SCA No.6955/2010 expeditiously and in accordance with law.

The Civil Appeal is allowed in the above terms.

However, the parties shall bear their own costs.

.....J.
[R.K. AGRAWAL]

.....J.
[ABHAY MANOHAR SAPRE]

NEW DELHI;
JULY 13,2017.

ITEM NO.13

COURT NO.9

SECTION III

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 for Special Leave to Appeal (C) No.17983/2010

(Arising out of impugned final judgment and order dated 18-06-2010 in SCA No.6955/2010 passed by the High Court Of Gujarat At Ahmedabad)

WAX OIL P.LTD. & ORS.

Petitioner(s)

VERSUS

ANKINI PETROCHEM LTD.

Respondent(s)

Date : 13-07-2017 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE R.K. AGRAWAL

HON'BLE MR. JUSTICE ABHAY MANOHAR SAPRE

For Petitioner(s) Mr. Avi Tandon, Adv.
Mr. Rohit Sthalekar, Adv.
Ms. Vasudha Zutshi, Adv.
For Ms. Rashmi Singh, AOR

For Respondent(s)

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

Leave granted.

The Civil Appeal is allowed in terms of the signed order.

Pending application, if any, stands disposed of.

(ASHA SUNDRIYAL)
COURT MASTER

(SNEH LATA SHARMA)
COURT MASTER

(Signed order is placed on the file)