

ITEM NO.45

COURT NO.10

SECTION XV

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). 24592/2014

(Arising out of impugned final judgment and order dated 12/04/2010 in OJA No. 21/2010 in CAN No. 374/2009 passed by the High Court Of Gujarat At Ahmedabad)

GUJARAT ENGINEERING AND GENERAL KAMDAR
UNION THRU. GENERAL SECRETARY

Petitioner(s)

VERSUS

OFFICIAL LIQUIDATOR AND ORS

Respondent(s)

(with appln. (s) for c/delay in filing SLP and directions and office report)

Date : 20/01/2017 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ARUN MISHRA
HON'BLE MR. JUSTICE AMITAVA ROY

For Petitioner(s) Mr. Sanjay Parikh, Adv.
Mr. Abinash Kumar Mishra, Adv.
Ms. Ninni Susan Thomas, Adv.
Mr. Nitesh Gupta, Adv.

For Respondent(s) Mr. Ravindra Kumar, Adv.

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

Delay condoned.

Leave granted.

Appeal is allowed in terms of the signed order.

(NEELAM GULATI)
COURT MASTER

(SUMAN JAIN)
COURT MASTER

(Signed order is placed on the file)

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S). 763 OF 2017
(Arising out of SLP (C) No. 24592 of 2014)

GUJARAT ENGINEERING AND GENERAL KAMDAR
UNION THRU. GENERAL SECRETARY

Appellant(s)

VERSUS

OFFICIAL LIQUIDATOR AND ORS.

Respondent(s)

O R D E R

Heard learned counsel for the parties at length.

Delay condoned.

Leave granted.

In the order which was passed on 13th July, 2001 by the High Court of Gujarat at Ahmedabad in Company Application No. 72 of 1996 following observations were made:

"By way of interim arrangement and without prejudice to the further claims of all the parties, OL is directed to disburse the following amounts to the respective parties:

1. Rs.86,75,758/- UDI Ex-workers
2. Rs. 1,87,57,620/- to Dena Bank
3. Rs.25,00,000/- to Life Insurance Corporation of India.

This order is passed in view of the totality and facts and circumstances available on record."

By the Impugned Order dated 12.04.2010 passed by the Division Bench of the High Court of Gujarat at Ahmedabad, the High Court barred to entertain further claim which has been made. We are of the considered opinion that the High Court has erred in barring the claim applying Order II Rule 2 of the Code of Civil Procedure, 1908 (in short 'the CPC').

In view of the Order dated 13.07.2001 which we have extracted Order II Rule 2 of the CPC could not have been attracted at all by the High Court. As such we set aside the impugned order passed by the High Court and request the High Court to decide the case afresh in accordance with law after hearing the parties as expeditiously as possible preferably within six months from today.

Appeal is allowed.

.....J
(ARUN MISHRA)

.....J
(AMITAVA ROY)

NEW DELHI
JANUARY 20, 2017