

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.17307 OF 2017
(Arising out of SLP(C)No.24636/2017)

JAYANTA CHOWDHURY ... APPELLANT(S)

VS.

B.K. CONSORTIUM ENGINEERS PVT. LTD. ... RESPONDENT(S)

O R D E R

1. Heard learned counsel for the parties.
2. Leave granted.
3. It was submitted by the learned counsel for the appellant that an onerous condition has been imposed by the High Court, and that too of a final nature, that a sum of Rs.1 Crore (Rupees one crore only) would be deposited and to be paid to the party who succeeds in the case.
4. On the other hand, learned counsel appearing for the respondent has also submitted that the High Court ought to have looked into the merits of the case and vacated the order of status quo that had been passed.
5. In the circumstances, we find that the High Court has not assigned proper reason for imposing the onerous condition and has also not looked into various other aspects of the matter when the order of final nature has been passed in respect of depositing Rs.1 Crore. It was

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not appropriate for the High Court to put such an onerous condition. The High Court should have examined whether it is a fit and proper case, for grant of injunction as prayed for, and for maintaining the status quo in the facts of the case.

6. Consequently, we set aside the order of the High Court, and request the High Court to decide the petition afresh in accordance with law.

7. The appeal is allowed. Pending application, if any, stands disposed of.

.....J.
[ARUN MISHRA]

.....J.
[MOHAN M. SHANTANAGOUDAR]

New Delhi;
23rd October, 2017.

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).24636/2017

(Arising out of impugned final judgment and order dated 16-08-2017 in CO No.3593/2016 passed by the High Court At Calcutta)

JAYANTA CHOWDHURY

Petitioner(s)

VERSUS

B.K. CONSORTIUM ENGINEERS PVT.LTD.

Respondent(s)

(With appln.(s) for exemption from filing c/c of the impugned judgment)

Date : 23-10-2017 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ARUN MISHRA

HON'BLE MR. JUSTICE MOHAN M. SHANTANAGOUDAR

For Petitioner(s) Mr. Rana Mukherjee, Sr. Adv.
Mr. Partha Sil, AOR
Mr. Dibakar Bhattacharjee, Adv.
Mr. Tavish B. Prasad, Adv.
Ms. Kasturika Kaumudi, Adv.

For Respondent(s) Mr. Jaideep Gupta, Sr. Adv.
Ms. Reshmi Rea Sinha, AOR
Mr. D. Adhikari, Adv.

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

Leave granted.

The appeal is allowed in terms of the signed order.

(Sarita Purohit)
Court master

(Tapan Kumar Chakraborty)
Branch Officer

(Signed order is placed on the file)