

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.23438/2019

(Arising out of impugned final judgment and order dated 05-08-2019 in CAL No. 342/2019 in Notice of Motion (L)No.413 of 2019 in Commercial Suit (L)No. 197/2019 passed by the High Court of Judicature at Bombay)

KIRTANLAL INTERNATIONAL DMCC

Petitioner(s)

VERSUS

SGS INDIA PRIVATE LIMITED & ORS.

Respondent(s)

(IA No. 69362/2020 - EARLY HEARING APPLICATION AND IA No. 152867/2019 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 02-05-2023 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.S. BOPANNA
HON'BLE MS. JUSTICE HIMA KOHLI

For Petitioner(s) Mr. Maninder Singh, Sr. Adv.
Mr. Malcolm Siganporia, Adv.
Mr. Hormuz Mehta, Adv.
Mr. Divyam Agarwal, AOR
Mr. Aniket Aggarwal, Adv.

For Respondent(s) Mr. Shah Shanay Darien, Adv.
Mr. Chaitanyashil Priyadarshi, Adv.
Mr. Aadhar Nautiyal, Adv.
Ms. Meghna M.Rao, Adv.
Mr. Shubham Sakhuja, Adv.
Ms. Sujata Kurdukar, AOR

Mr. K.V.Vishwanathan, Sr. Adv.
Mr. Shikhil Suri, Adv.
Mrs. Madhu Suri, Adv.
Ms. Jyoti Suri, Adv.
Ms. Komal Gupta, Adv.
Ms. Mahima Aggarwal, Adv.
Mr. Ankit Paleja, Adv.
Ms. Ragini Jaitha, Adv.
Mr. T. R. B. Sivakumar, AOR

Mr. Sajan Poovayya, Sr. Adv.
Mr. Kunal Mimani, AOR
Mr. Aditya Kakker, Adv.

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

Having heard learned senior counsel for the parties, we note that the impugned order by the Division Bench of the High Court arises from an order passed on the 'Notice of Motion' pending before the High Court in the Commercial Division in Commercial Suit (L) No. 197/2019.

The grievance put forth on behalf of the petitioner is that the required test for ascertaining the quality of the Cylinder supplied by the petitioner, has not been done and as such the right of the petitioner is affected. It is in that light, the 'Notice of Motion' had been moved in the Suit seeking for interim directions in that regard. The relief being declined, resulted in the appeal in which the impugned order affirming the same is passed.

At the time of hearing we note that the Suit is of the year 2018 and the relief prayed in the Suit is similar to the relief which has been prayed in the 'Notice of Motion'. Since at this stage, the Suit itself can be disposed of by the High Court (Commercial Division), we do not deem it appropriate to advert into much details of the impugned order herein.

However, we make it clear that any of the observations contained in the order shall not prejudice the petitioner who is the plaintiff in the Suit. All contentions in that regard are left open.

We request the High Court (Commercial Division) to dispose of the Suit as expeditiously as possible and all parties to co-operate with the High Court in disposal of the Suit.

The amount in deposit before this Court shall now be transmitted to the High Court of Judicature at Bombay to be accounted in Commercial Suit (L) No. 197/2019 and it would be open for the High Court to pass appropriate order in that regard on hearing the learned counsel for the parties.

All contentions of the parties are left open.

In view of above, the special leave petition stands disposed of.

Pending application(s) shall also stand disposed of.

(RAJNI MUKHI)
COURT MASTER (SH)

(DIPTI KHURANA)
ASSISTANT REGISTRAR