

ITEM NO.33

COURT NO.5

SECTION XVI

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). 29299-29300/2019  
(Arising out of impugned final judgment and order dated 22-08-2019  
in APO No. 33/2019 22-08-2019 in GA No. 1493/2019 passed by the  
High Court At Calcutta)

RAJENDRA PRASAD BUDHIA

Petitioner(s)

VERSUS

M/S SAMAR SINGH JAYASWAL PRIVATE LIMITED

Respondent(s)

Date : 14-02-2020 These petitions were called on for hearing today.

CORAM :

HON'BLE MRS. JUSTICE R. BANUMATHI  
HON'BLE MR. JUSTICE A.S. BOPANNA

For Petitioner(s) Mr. Sachin Datta, Sr. Adv.  
Mr. Amit Meharia, Adv.  
Ms. Tannishtha Singh, Adv.  
Ms. Gargi Barkakati, Adv.  
M/S. Meharia & Company, AOR

For Respondent(s) Mr. Mainak Bose, Adv.  
Mr. Anand Sukumaran, Adv.  
Mr. S. Sukumaran, Adv.  
Mr. Bhupesh Kumar Pathak, Adv.  
Mrs. Meera Mathur, Adv.

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

The petitioner is before this Court assailing the judgment dated 22.08.2019 passed by the High Court of Judicature at Calcutta in APO No. 33 of 2019 with GA 1493 of 2019 in CS No. 63 of 2018.

The genesis of the dispute between the parties is with regard to the Agreement of Sale dated 01.04.2015. In respect of the same, since the transaction did not go through, the petitioner-herein filed a suit seeking refund of the earnest money which had been paid to the respondent-herein. The amount paid as earnest money was

a sum of Rs. 2,52,00,000/- (Rupees two crores fifty two lakhs). The High Court in its original jurisdiction at the first instance had granted an order for refund of the amount with interest. The said order was assailed in the Appellate Jurisdiction of the High Court. The High Court though maintained the order for refund of the earnest money paid by the petitioner-herein to the respondent, the order to pay interest on the said amount is set aside. It is in that circumstance, the petitioner is before this Court in this petition.

Having heard the learned counsel for the parties, the question which is required to be considered herein is only with regard to the entitlement of interest. Taking note that a sizeable amount of Rs. 2,52,00,000/- (Rupees two crores fifty two lakhs) was paid as earnest money, a suggestion was made by this Court to settle the matter among themselves so that the issue could be put to rest. In that background, it was suggested that a fair amount be worked out taking into consideration the date of the suit and the date on which the amount was made and interest be worked out at 6% p.a. Since the suit is filed on 01.04.2018 and the earnest money had been refunded on 04.09.2019, if the interest at the rate of 6% p.a. is worked out, it would work out to a sum of Rs.21,42,000/- (Rupees twenty one lakhs forty two thousand).

Mr. Sachin Datta, learned senior counsel appearing on behalf of the petitioner would contend that the interest payable on fixed deposit by the bank atleast be considered. Learned counsel for the respondent would oppose the said contention. However, as already indicated, since the consideration was made so as to put an end to

the litigation between the parties, it is ultimately agreed that the matter would be settled by the respondent on paying a sum of Rs. 25,00,000/- (Rupees twenty five lakhs) as lumpsum amount to be paid in instalments or in one lumpsum within outer limit of six months. In that view, the order impugned herein is modified holding that the petitioner is entitled to receive a lumpsum amount of Rs. 25,00,000/- (Rupees twenty five lakhs) from the respondent towards interest in full and final settlement of all claims. The said amount shall be paid by the respondent within outer limit of six months. On payment of the said amount, the suit bearing No. CS 63 of 2018 filed by the petitioner seeking interest shall stand disposed of as withdrawn and an appropriate memo to that effect be filed in the Original Side of High Court wherein the suit is pending. The special leave petitions are, accordingly, disposed of.

Pending application(s), if any, shall also stand disposed of.

(MADHU BALA)  
AR-cum-PS

(BEENA JOLLY)  
BRANCH OFFICER