

ITEM NO.6

COURT NO.6

SECTION XII

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

SPECIAL LEAVE PETITION (CIVIL) Diary No(s). 41986/2017

(Arising out of impugned final judgment and order dated 10-06-2016 in WA No. 20776/2012 10-06-2016 in WA No. 20731/2012 10-06-2016 in WA No. 20716/2012 10-06-2016 in WA No. 20696/2012 10-06-2016 in WA No. 20681/2012 10-06-2016 in WA No. 20661/2012 10-06-2016 in WA No. 32850/2012 10-06-2016 in WA No. 32848/2012 10-06-2016 in WA No. 32847/2012 10-06-2016 in WA No. 32845/2012 10-06-2016 in WA No. 32840/2012 10-06-2016 in WA No. 32912/2012 10-06-2016 in WA No. 32941/2012 10-06-2016 in WA No. 32938/2012 10-06-2016 in WA No. 32930/2012 10-06-2016 in WA No. 32929/2012 10-06-2016 in WA No. 32862/2012 10-06-2016 in WA No. 32861/2012 10-06-2016 in WA No. 32859/2012 10-06-2016 in WA No. 32876/2012 10-06-2016 in WA No. 32875/2012 10-06-2016 in WA No. 32874/2012 10-06-2016 in WA No. 32872/2012 10-06-2016 in WA No. 32869/2012 10-06-2016 in WA No. 32866/2012 10-06-2016 in WA No. 32864/2012 10-06-2016 in WA No. 32863/2012 10-06-2016 in WA No. 32927/2012 10-06-2016 in WA No. 32926/2012 10-06-2016 in WA No. 32925/2012 10-06-2016 in WA No. 32922/2012 10-06-2016 in WA No. 32918/2012 10-06-2016 in WA No. 32917/2012 10-06-2016 in WA No. 32913/2012 10-06-2016 in WA No. 32844/2012 10-06-2016 in WA No. 32841/2012 10-06-2016 in WA No. 32834/2012 10-06-2016 in WA No. 32833/2012 10-06-2016 in WA No. 32832/2012 10-06-2016 in WA No. 32831/2012 10-06-2016 in WA No. 32830/2012 10-06-2016 in WA No. 32829/2012 10-06-2016 in WA No. 32828/2012 10-06-2016 in WA No. 32819/2012 10-06-2016 in WA No. 32818/2012 10-06-2016 in WA No. 32817/2012 10-06-2016 in WA No. 32816/2012 10-06-2016 in WA No. 32814/2012 10-06-2016 in WA No. 32811/2012 10-06-2016 in WA No. 32810/2012 10-06-2016 in WA No. 32809/2012 10-06-2016 in WA No. 32808/2012 10-06-2016 in WA No. 32807/2012 10-06-2016 in WA No. 27778/2014 passed by the High Court Of Judicature At Madras At Madurai)

CHAIRMAN AND MANAGING DIRECTOR
TAMIL NADU HOUSING BOARD & ANR.

Petitioner(s)

VERSUS

M.G. VINCY & ANR.

Respondent(s)

(FOR ADMISSION and I.R. and IA No.35011/2018-CONDONATION OF DELAY IN FILING and IA No.35008/2018-CONDONATION OF DELAY IN REFILING)

WITH

Diary No(s). 41993/2017 (XII)

(IA No.36507/2018-CONDONATION OF DELAY IN FILING and IA No.36508/2018-CONDONATION OF DELAY IN REFILING)

Date : 23-03-2018 These matters were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE A.K. SIKRI
HON'BLE MR. JUSTICE ASHOK BHUSHAN

For Petitioner(s) Mr. K. Ramamoorthy, Sr. Adv.
Mr. C. Paramasivam, Adv.
Mr. M. Yogesh Kanna, AOR

For Respondent(s)

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

Delay condoned.

Mr. K.Ramamoorthy, learned senior counsel appearing for the petitioners, has drawn our attention to the order dated 02.09.2008 passed by this Court in C.A. No. 1805 of 2007, titled as "Chairman & Managing Director Tamil Nadu Housing Board & Anr. Versus S. Raghavan & Ors.". Vide the said order the aforesaid appeal was decided along with certain other appeals. This Court had *inter alia* directed as under:

6. When the matter came up today, both counsel submitted that the parties were agreeable for modification of the date of commencement of interest as 1.1.2001 instead of 21.5.2004 with reference to the final land cost of Rs.349100/- (with 5% profit) per ground as on 31.12.2000.

7. In regard to capitalization, it was submitted on behalf of the Board that the standard procedure adopted for arriving at the price for all schemes of the Board, where the allotment was made after the cut off date was to add capitalization charges on the cost of construction (that is, approved selling price less land cost, profit and collection charge) from the 'cut off date' to date of allotment or ready for occupation date whichever was later. It was submitted that in Ellisnagar Scheme, all allotments were made after the cut off date, but the aforesaid procedure of adding capitalization charges was not followed in arriving at the selling price; and that therefore, later on, based on the GO dated 2.2.2001, the capitalization amount and interest thereon from

allotment date was intimated to the allottees. It was contended that the standard method of capitalization adopted by the Board ought not to have been disturbed by the High Court and that the decision will affect the right of the appellant-Board to capitalize the interest component on the cost of construction, under other schemes.

It is the submission of the learned senior counsel that the High Court while passing the order has not taken into consideration the spirit of the aforesaid directions given by this Court. It is also submitted that in the aforesaid case the date of commencement of interest was 01.01.2001 and in the appeals the High Court has directed that the interest was payable from 2011.

In the aforesaid circumstances, we permit the petitioners to approach the High Court by moving a review application. If the review application is moved within 30 days the same shall be considered on merits and shall not be dismissed on the ground of delay. In case, the order in the review petition goes against the petitioners, the petitioners shall have the right to challenge the said order as well as the order impugned in these petitions.

The High Court shall not proceed with the contempt petition(s) till the review petition, which is to be filed by the petitioners is decided.

The Special Leave Petitions are disposed of accordingly.

Pending application(s), if any, stands disposed of accordingly.

(ASHWANI THAKUR)
COURT MASTER (SH)

(MALA KUMARI SHARMA)
COURT MASTER