

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

CIVIL APPEAL NO(s). D.35086 OF 2013 (FOR PREL.HEARING)

NEW INDIA ASSURANCE CO. LTD

Appellant (s)

VERSUS

HILLI MULTIPURPOSE COLD STORAGE PVT LTD

Respondent(s)

(With appln(s) for condonation of delay in filing appeal and office report
)

WITH

Civil Appeal NO. D35087 of 2013(FOR PREL.HEARING)

(With appln(s) for condonation of delay in filing appeal and office report
)

Date: 29/11/2013 These Appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE H.L. GOKHALE

HON'BLE MR. JUSTICE J. CHELAMESWAR

For Petitioner(s)

Mr. G.E. Vahanvati, A.G.

Mr. Vishnu Mehra, Adv.

Ms. Manjeet Chawla, AOR.

Ms. Sakshi Mittal, Adv.

Ms. Sunanda Roy, Adv.

For Respondent(s)

Mr. Guru Krishna Kumar, Sr. Adv.

in CA D35086/13

Mr. Hiren Dasan, Adv.

Mr. Narayan Das, Adv.

Mrs Sarla Chandra, AOR.

Ms. Shanta Pandey, Adv.

UPON hearing counsel the Court made the following

O R D E R

1 Heard Mr. Vahanvati, learned Attorney General, in support of these appeals. Mr. Guru Krishna Kumar, learned senior counsel, appears for the respondent(s).

2 Learned Attorney General points out that the judgment in Dr.J.J. Merchant & Ors. Vs. Shrinath Chaturvedi, reported in [2002(6)SCC 635], has been considered and a different view has been taken in Kailash Vs. Nanhku & Ors., reported in [2005(4)SCC 480], on the issue of limitation. The matters, therefore, require consideration.

3 Delay condoned.

4 The appeals are admitted.

5 Since this point of law requires to be resolved, we request the Hon'ble the Chief Justice to place these appeals before a larger Bench.

6 As far as the claim of the respondent is concerned, in view of the fact that even according to the surveyors of the appellant insurance company, the amount due is at the highest of Rs.45,18,750/-, the appellant will deposit the amount of Rs.45,00,000/- in this Court within four weeks. The respondents,

if they want to withdraw the amount, will be at liberty to withdraw the same by giving Bank Guarantee of a nationalised bank, which shall be kept alive through out the proceeding.

7 In that view, the amount be withdrawn by giving a Bank Guarantee, within four weeks. In the event the amount is not so withdrawn, the Registry will invest the amount in a nationalised bank for a period of one year to begin with and continue to renew the deposit for six months at a time until further orders are passed in this regard.

8 The interim impugned order of the National Commission, shall remain stayed.

9 Alternatively, it will be open to the respondents to give a Bank Guarantee of Rs.25 Lakhs and withdraw that amount and give security of over an immovable property to the extent of Rs.20 Lakhs, which should be acceptable to the satisfaction of the Registry.

10 There will be similar order in the other appeal, being Civil Appeal NO. D35087 of 2013, except that the amount of Rs.12 Lakhs be deposited within four weeks, with liberty to withdraw the same by giving Bank Guarantee of a nationalised bank, as aforesaid.

[Sheetal Dhingra]
A.R-cum-P.S.

[Sneh Lata Sharma]
Court Master