

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 6077 OF 2017

[@ SPECIAL LEAVE PETITION (C) NO. 14445 OF 2016]

SUMANGAL HOLDINGS

APPELLANT (S)

VERSUS

CARONA LTD. & ORS.

RESPONDENT (S)

J U D G M E N T

KURIAN, J.

Leave granted.

2. In the nature of order we propose to pass, it is not necessary to refer the factual matrix. The order dated 30.06.2016 passed by this Court, which reads as follows:-

"On behalf of the Petitioner Mr. Shekhar Naphade, learned senior counsel has submitted that there is no provision of law under which the Impugned Order could have been passed by the courts below.

In reply, Mr. B.H. Marlapalle, learned senior counsel for the respondents has placed reliance upon Order XVA of the Code of Civil Procedure, 1908 (in short

'the CPC') as applicable in the State of Maharashtra which permits the Court below to issue a direction to make deposit on account of arrears up to the date of order.

Issue arises as to what shall comprise the arrears in view of the terms of the agreement or the law.

On behalf of the petitioner, it has further been submitted that order XVA of the CPC will not apply to a Small Causes Court.

No notice need be issued as contesting respondent No.1 has appeared by the learned counsel who waives notice on its behalf. Petitioner may serve the other proforma respondents by dasti process.

The respondents may file counter affidavit on the issues indicated above and other relevant issues within four weeks.

Rejoinder, if any, may be filed within further four weeks. List thereafter.

Until further orders, the Impugned Order shall remain stayed on the condition that the Petitioner shall deposit an amount of Rs.6,50,00,000/- (Rupees Six Crores and fifty lakhs only) in the trial court within eight weeks to the credit of Respondent No.1-the plaintiff. On such deposit being made by the Petitioner, the trial court shall

keep the said amount in Bank in a short term Fixed Deposit Account awaiting the orders of this Court.

List after eight weeks."

3. We are informed that pursuant to the said order an amount of Rs.6.5 Crores has been deposited in the Trial Court.

4. Since the suit is now pending before the Trial Court, we are of the view that there is no point in keeping the appeal pending before this Court. Therefore, this appeal is disposed of with liberty to the respondents to approach the Trial Court for appropriate orders with regard to the prayer made by the respondent before this Court for withdrawal of the amount deposited in the Trial Court..

5. Since we are informed that the trial has already commenced, we request the Trial Court to expedite the disposal of the suit.

6. We make it clear that we have not expressed any opinion on the merits of the matter and all the contentions of both the parties are left open.

7. Pending applications, if any, shall stand disposed of.

8. There shall be no orders as to costs.

.....J.

[KURIAN JOSEPH]

.....J.
[R. BANUMATHI]

NEW DELHI;
MAY 02, 2017.

SUPREME COURT OF INDIA



JUDGMENT