

2022 LiveLaw (SC) 231

IN THE SUPREME COURT OF INDIA

M.R. SHAH; B.V. NAGARATHNA, JJ.

Special Leave to Appeal (C) No(s). 2074-2075/2022; 18-02-2022

M/S PRIYASHI AASHI DEVELOPERS PVT. LTD.

VERSUS

MITRAJYOTI DEKA & ORS.

Practice and Procedure - Special Leave Petitions - Whenever documents/ additional documents are to be relied upon are to be produced and as far as possible, they must be filed along with the Special Leave Petition. If for any reason the same have not been filed along with the Special Leave Petition then in that case the same shall be filed well in advance before the Special Leave Petitions are heard by the Courts. By not filing the application for additional documents at the time of filing the Special Leave Petition but filing the same at the last moment and on the previous day of the posting of the Special Leave Petition and many a time late in the evening causes great inconvenience to the Court. (Para 2-4)

Arising out of impugned final judgment and order dated 12-11-2021 in ARBA No. 7/2021 12-11-2021 in ARBA No. 8/2021 passed by the Gauhati High Court)

For Petitioner(s) Mr. Shyam Divan, Sr. Adv. Mr. Pragyan Pradip Sharma, Adv. Mr. Gaichangpou Gangmei, AOR Ms. Gurnoor Kaur, Adv. Mr. Udayaditya Banerjee, Adv. Mr. Adith Deshmukh, Adv.

ORDER

1. Shri Shyam Divan, learned Senior Advocate appearing on behalf of the petitioner, relies upon the documents produced by way of additional documents which is part of Volume-III. Unfortunately, the papers of Volume-III are not circulated and therefore, this Court has had no opportunity to go through the documents containing Volume-III. It is reported by the Advocate-on-Record that it has been e-filed two days back and due to paucity of time it might not have been circulated.

2. We have come across many matters in which the Advocates-on-Record are filing the applications for additional documents only at the time of hearing of the Special Leave Petition(s) though the Special Leave Petitions are filed much earlier.

3. Normally, all documents if any, which, according to the counsel for the petitioner, are relevant and/or material and which are part of the proceedings before the Court, shall have to be filed along with the Special Leave Petition itself particularly when reliance is placed on the said documents. Even additional documents which were not filed before the High Court on which the counsel for the petitioner proposes to rely, in that case also, a proper application is to be filed well in advance seeking permission

to file additional documents which can be considered after considering Order 41 Rule 27 of the CPC when applicable. By not filing the application for additional documents at the time of filing the Special Leave Petition but filing the same at the last moment and on the previous day of the posting of the Special Leave Petition and many a time late in the evening causes great inconvenience to the Court. It is also found that, many a time, application for additional documents reach late in the night of the previous day of the hearing of the Special Leave Petition although those documents were part of the record of the impugned judgment and which should have been filed along with the Special Leave Petition.

4. Therefore, we impress upon all the learned Advocates-on-Record to take note of this order and ensure that whenever documents/ additional documents are to be relied upon are to be produced and as far as possible, they must be filed along with the Special Leave Petition. If for any reason the same have not been filed along with the Special Leave Petition then in that case the same shall be filed well in advance before the Special Leave Petitions are heard by the Courts. This will avoid inconvenience to the Court and Hon'ble Judges can have sufficient time to go through the same.

5. The Registry is directed to send a copy of this order to the President, Supreme Court Advocates-on-Record Association to convey this order to the respective Advocates-on-Record. A copy of the order shall also be placed before learned Registrar (Judicial) for taking necessary steps in the matter.

6. On merits of the impugned judgment and order passed by the High Court, Shri Shyam Divan, learned Senior Advocate appearing on behalf of the petitioner, has vehemently submitted that, in the grounds of appeal before the High Court it was specifically pointed out in para 45 that it had already executed deeds for Agreement for Sale for all the remaining 91 nos. of residential flats and 2 nos. of commercial spaces and handed over possession to all the flat/space owners. It was further stated that it had already executed registered sale deeds in respect of 57 nos. of residential flat owners whose names have already been mutated in the record of rights in respect of their proportionate undivided share of land to the plot of land of the respondents even before application under Section 9 of the Arbitration Act was filed. It is further stated that the sale permissions to execute the registered sale deed from the possession of the Deputy Commissioner, Kamrup (Metro) have already been obtained in respect of other flat owners who have already paid almost 80% of the sale consideration but in view of the grant of interim protection by the learned District Judge, the registered sale deeds could not be executed in view of other flat owners. Therefore, it is submitted that, as such, the injunction would operate against those third parties.

7. Having heard Shri Shyam Divan, learned Senior Advocate for the petitioner and noting the above submissions, we permit the petitioner to approach the High Court to

file a review application and point out and make submissions on the aforesaid and request the High Court to vacate the injunction and/or modify the injunction. As and when such review application is filed, the High Court is requested to consider the same in accordance with law and on its own merits and true perspective. Such a review application to be filed within a period of two weeks from today and the High Court to consider the review application thereafter within a period of four weeks from the date of filing of the review application.

8. With this, the present Special Leave Petitions stand disposed of. Pending application also stands disposed of.

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