

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO.2133 OF 2009
(Arising out of S.L.P. (C) No.15300 of 2008)

India Cements Ltd.

...Appellant(s)

Versus

State of Tamil Nadu and Ors.

...Respondent(s)

O R D E R

Leave granted.

By an order dated 6.9.2006, the learned Single Judge of the Madras High Court allowed the writ petition filed by the appellant and quashed the demand of water charges created by Collector, Tirunelveli in lieu of the use of water from Tamirabarani river. The writ appeal filed by the respondents against the order of the learned Single Judge was taken up for hearing on 18.3.2008 from the weekly list of the court and even though none appeared for either of the parties, the Division Bench allowed the same on the ground of availability of alternative remedy and also on the ground that in exercise of jurisdiction under Article 226 of the Constitution, the Court cannot go into the question of interpretation of an agreement.

It is not in dispute that the writ appeal filed by the respondent was not shown in the daily cause list and it was taken up from out of the weekly list without notice to the parties or their counsel and as a result none could represent the parties. This being the position, the Division Bench was not justified in disposing of the appeal on merits.

...2/-

Accordingly, the appeal is allowed, impugned order passed in the writ appeal is set aside and the matter is remanded to that Court for deciding the writ appeal on merits in accordance with law after giving opportunity of hearing to the parties.

In the facts and circumstances of the case, the High Court is requested to dispose of the writ appeal as expeditiously as possible.

[B.N. AGRAWAL]

.....J.

[G.S. SINGHVI]

.....J.

New Delhi,
April 02, 2009.