

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL No.4 OF 2009
[Arising out of SLP(C)No.13250 of 2006]

R. SARAVANA PRABHU & ANR.

... Appellant(s)

Versus

M/S. VIDEOCON LEASING&INDL.FIN.LTD.&ANR.

... Respondent(s)

ORDER

Leave granted.

This appeal is directed against the judgment and order dated 12th June, 2006 passed by the Bombay High Court in Appeal No.922 of 2005 in Summons for Judgment No.717 of 1999 in Summary Suit No. 475 of 1999 affirming the judgment of the learned Single Judge, granting conditional leave to the appellant to contest the suit filed by the respondent upon depositing Rs. 3.1 crores as pre-condition for defending the suit.

We have heard Mr. R.F. Nariman, learned senior counsel, appearing in support of the appeal and from the materials, it appears that there are several triable issues

-2-

to be considered in the suit, which has been filed under Order 37 CPC. He has relied on the decision of this Court in the case of Mechelec Engineers & Manufacturers Vs. M/s. Basic Equipment Corporation, reported in 1977 (1) SCR 1060, wherein a Bench of three Judges had laid down certain propositions with regard to the grant of leave in respect of summary trials. The present case appears to be covered by proposition (b) of the said propositions.

On behalf of the respondent(s) it has been submitted that since leave had been obtained by the respondent herein for filing the suit under Clause 12 of the Letters Patent, that itself should be sufficient to indicate that part of the cause of action has arisen within the jurisdiction of the Bombay High Court.

Be that as it may, since the suit filed by the respondent does raise questions which, prima facie, appear to be triable, following the decision in the Mechelec Engineers & Manufacturers case (supra), we are of the view that the High Court erred in directing the appellant to deposit the amount, as mentioned in the cheque.

We, accordingly, allow the appeal and set aside the order of the High Court and grant unconditional leave to

-3-

the appellant to defend the suit in question. The High Court, however, is requested to take all such steps as may be possible to dispose of the suit as expeditiously as possible, but at least within a year from the date of communication of this order.

There will be no order as to costs.

.....J.
(ALTAMAS KABIR)

.....J.
(CYRIAC JOSEPH)

New Delhi,
January 05, 2009.

JUDIS