

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO.7365 OF 2008
(Arising out of S.L.P. (C) No.29585 of 2008)

M/s. Venkatesh Chemi-Colour Co. and Ors. ...Appellant(s)

Versus

Hatim Suterwalla and Ors. ...Respondent(s)

With Civil Appeal No.7366 of 2008
(Arising out of S.L.P. (C) No.30348 of 2008)

O R D E R

Leave granted.

Heard learned counsel for the parties.

In Summary Suit No.1721 of 2001 filed by Respondent No.1 herein, leave was granted to the defendants, including the appellants herein, to defend the suit on their depositing sum of Rupees thirty lakhs within a period of four weeks. The appeal preferred by the appellants was dismissed by the Division Bench of the High Court but the time for depositing the amount was extended by four weeks. On 9th April, 2007, the learned Single Judge decreed the suit by observing that the defendants failed to deposit Rupees thirty lakhs, as per order dated 19th October, 2005, passed in Appeal No.744 of 2006. Notice of Motion taken out by some of the appellants for restoration of Appeal No.744 of 2006 and grant of

...2/-

permission to deposit the amount as per order dated 19th October, 2005, with a further prayer to set aside decree dated 9th April, 2007, passed in Summary Suit No.1721 of 2001 was dismissed by the Division Bench vide order dated 20th November, 2008. Against that order, appeal arising out of S.L.P. (C) No.29585 of 2008 has been filed.

During the course of arguments, learned counsel for the parties made an agreed statement that the appellants will deposit Rupees seventy two lakhs with Prothonotary and Senior Master of the Bombay High Court within four weeks from today and, on their doing so, the decree passed in the summary suit be set aside. They also agreed that the plaintiffs shall be permitted to withdraw the aforesaid amount upon furnishing security to the satisfaction of the Prothonotary and Senior Master of the Bombay High Court.

In view of the statement made by the learned counsel for the parties, the appeals are allowed, decree passed in Summary suit No.1721 of 2001 is set aside and leave is granted to the defendants to contest the suit.

Needless to say that if the amount is not deposited within the time specified above, this order shall stand recalled and the appeals shall stand dismissed.

[B.N. AGRAWAL]J.

[G.S. SINGHVI]J.

[RAJENDRA MAL LODHA]J.

New Delhi,
December 17, 2008.