

CASE NO.:
Appeal (civil) 6132 of 2005

PETITIONER:
Tata Chemicals Ltd.

RESPONDENT:
State of Gujarat and Anr.

DATE OF JUDGMENT: 05/10/2005

BENCH:
G.P. Mathur & P.K. Balasubramanyan

JUDGMENT:
J U D G M E N T
(Arising out of Special Leave Petition (Civil) No.10973 of 2003)

G.P. MATHUR, J.

1. Leave granted.

2. This appeal, by special leave, has been preferred against the order dated 19th June, 2003 of High Court of Gujarat, by which the appeal filed by the appellant under Order XLIII Rule 1(r) CPC was admitted, but no interim order was granted in its favour.

3. The appellant filed Special Civil Suit No.4 of 2000 in the Court of Civil Judge (Sr. Division) at Jam Khambhalia against the State of Gujarat and Taluka Development Officer, Taluka Panchayat, Dwarka praying that a decree be passed declaring the notice of demand dated 18th November, 1999 for Rs.62,70,123.89 issued by second defendant as illegal and without jurisdiction and consequently null and void and for a further declaration that the appellant is entitled to pay at the rates as stipulated in the deed of conveyance dated 11th February, 1970. A further relief is sought that the defendants be restrained from taking any steps for recovery of the amount of Rs.62,70,123.89 on the basis of the aforesaid notice. In the suit the appellant filed an application under Order XXIX Rule 1 and 2 CPC praying that the defendants, their agents and servants be restrained from taking any coercive steps for recovery of the aforesaid dues on the basis of impugned notice of demand dated 18th November, 1999. The defendant No.2 filed a written statement and opposed the application moved by the appellant for grant of interim injunction in its favour. The learned Civil Judge (Sr. Divn.) after taking notice of the fact that the suit land was situated in the outskirts of the village and had been acquired by the appellant with full occupancy rights through a conveyance deed executed by Collector, Jamnagar on behalf of the Governor of State of Gujarat on 11th February, 1970 and the assessment of revenue had been settled in the deed, came to a finding that the appellant had established a prima facie good case in its favour. However, the application was rejected on the ground that the appellant would not suffer any irreparable injury as in the event the appellant succeeded in the suit, the Court was competent to direct refund of the amount along with appropriate interest. The appellant preferred an appeal against the aforesaid order of the learned Civil Judge (Sr. Divn.) under Order XLIII Rule 1(r) CPC which was admitted, but the prayer for grant of an interim injunction pending the appeal was rejected by the order dated 19th June, 2003 which is the subject matter of challenge in the present appeal.

4. We have heard Shri V.A. Mohta, learned senior counsel for the

appellant and Shri R.P. Bhatt, learned senior counsel for the respondents. Notice was issued in the Special Leave Petition on 30th June, 2003. Thereafter, on 22nd March, 2004, the following interim order was passed after hearing counsel for both the sides :

"In the meantime, by way of interim relief it is directed that the petitioner shall pay the dues, fallen in arrears with effect from 1st January, 2000 and calculated upto 31st March, 2004 within a period of six weeks from today, subject to adjustment for such amount as may have already been paid for this period and shall thereafter continue to pay the arrears falling due year by year within four weeks of the demand being raised for that financial year.

The arrears as per demand contained in the notice dated 18th November, 1999 shall be secured by the petitioner by furnishing a bank guarantee within six weeks from today and the amount shall also remain as charge on the property of the petitioner-company.

This interim arrangement shall remain in operation during the hearing of this petition."

Shri Mohta has made a statement that the suit has to be decided basically on the basis of documentary evidence and very little oral evidence has to be adduced by the parties. In that view of the matter, we are of the opinion that it will be in the interest of justice if the suit itself is disposed of at an early date. It is accordingly directed that the learned Civil Judge (Sr. Divn.) at Jam Khambhalia shall decide the suit as expeditiously as possible, preferably within six months of filing of a certified copy of this order before him and the order passed by this Court on 22nd March, 2004, as reproduced above, shall remain in operation until the decision of the suit. The appellant shall file a certified copy of this order before the trial Court by 31st October, 2005.

5. The appeal is disposed of in the above terms.