

SAHARA INDIA COMMERCIAL CORPN. LTD.

v.

B. JEEJEEBHOY VAKHARIA AND ORS.

(Civil Appeal No. 725 of 2009)

FEBRUARY 5, 2009

**[DR. ARJIT PASAYAT AND ASOK KUMAR
GANGULY, JJ.]**

Constitution of India, 1950 – Article 136 – Direction issued – For early disposal of suit pending before High Court and of appeal filed against the order passe in chamber summons.

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 725 of 2009.

From the final Judgment and Order dated 11.6.2008 and 12.6.2008 of the High Court of Judicature at Bombay in Appeal No. 496 of 2007 in Notice of Motion No. 3950 of 2005 in Suit No. 3376 of 2005.

WITH

C.A. Nos. 726 & 727 of 2009

F.S. Nariman, Arun Jaitley, V.A. Bobde, Ravi Shankar Prasad, H.N. Salve, U.U. Lalit, Mukul Rohtagi, Rajiv Dhawan and Altaf Ahmad, K.K. Lahiri, M. Gandhi, Gaurav Joshi, Satyam Vora, S.B. Maheshwari, P.S. Sudheer, Shally Bhasin Maheshwari, Keshav Mohan, Akhil Anand, Rishi Maheshwari, Anne Mathew, Megha Mukherjee, Suman Jyoti Khaitan, Dhiman Thakkar, Mohd. Akram, Ruby Singh Ahuja, Abir Kumar, Simran Brar, Pragya Ohri, Manik Karanjawala, Sidhartha Chowdhury, Meenakshi Grover, Bhargava V. Desai, Rahul Gupta, Reema Sharma and Kishore Jain for the appearing parties.

A The Judgment of the Court was delivered by

DR. ARIJIT PASAYAT, J.1. Leave granted.

2. Though many points were urged in support of the appeals we dispose of the appeals with the following directions:

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- (i) Let the suit No.3376 of 2005 on the file of the Bombay High Court be disposed of as expeditiously as possible preferably within a period of three months from today. We request the Hon'ble Chief Justice of Bombay High Court to pass necessary orders in the matter and direct the matter to be placed before an appropriate Bench. The suit shall be decided uninfluenced by any observations or findings in the impugned judgment dated 11.12.2008 of the Division bench and observations and findings of the judgment of learned Single Judge dated 4.6.2007.

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- (ii) To expedite the disposal of the suit oral evidence may be directed to be taken on affidavit and/or on commission as provided in the Code of Civil Procedure, 1908 (in short the 'Code'). The filing of documents, admission and denial thereof and framing of issues shall be completed within one month from today.

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- (iii) It appears that the plaintiff had filed an appeal (L) No.409 of 2009 against the order dated 24.6.2008 on Chamber Summons No.587 of 2007. The same shall be disposed of as expeditiously as possible preferably within a period of one month from today.

3. It is submitted that by virtue of the order passed on the Chamber Summons on 24.6.2008, a learned Judge has observed that the suit is not maintainable against defendant No.4. Since we have directed appeal against this order to be

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disposed of within one month, liberty is given to defendant No.4 to apply for variation and discharge of the undertaking upon disposal of the appeal in its favour. The Appeal Court will dispose of the said appeal uninfluenced by undertaking given by respondent No.4 herein. It is made clear that we have expressed no opinion on the merits of the case.

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4. The appeals are accordingly disposed of.

K.K.T.

Appeals disposed of.