
(2003) 09 SC CK 0129

In the Supreme Court Of India

Case No : I.A. No"s. 4 and 5 in Civil Appeal No. 14420 of 1996 etc. with T.C. No. 54 of 2003

National Power Transmission Corpn. Ltd.

APPELLANT

Vs

Shree Cement Ltd. and Others

RESPONDENT

Date of Decision : 25-09-2003

Acts Referred:

Constitution of India, 1950 — Article 142

Citation : (2003) 8 SCALE 215 : (2003) 47 SCL 801 : (2004) 1 UJ 233

Hon'ble Judges : N. Santosh Hedge, J;B. P. Singh, J

Bench : Division Bench

Advocate : Mukul Rohtagi, Additional Solicitor General, S.B. Upadhayay, Piyushy Sharma, Anand Padmanabhan and Pramod Dayal, for the Appellant; R.F. Nariman Rajiv Shakdhar, U.A. Rana and Arvind Kumar for Gagrath and Co., A. Subba Rao, P. Parmeswaran, Gopal Jain, A.L. Pandia, R.N. Karanjawala, Nandini Gore and Manik Karanjawala, for the Respondent

Final Decision : Dismissed

Judgement

1. Heard learned counsel for the parties.

2. In view of the order we intend making hereinafter, we do not think it is necessary at this stage to dwell at length on the facts giving rise to the I.As. as well as the Transferred Case. Suffice it to say that I.A. Nos.4 and 5 in disposed of C.A. No. 14420 of 1996 are filed by Shree Cement Ltd. invoking the jurisdiction of this Court under Article 142 of the Constitution of India, and praying for certain orders and directions against the National Power Transmission Corporation Ltd. now Power Grid Corporation.

3. Transferred Case No. 54 of 2003 is in Company appeal filed by National Power Transmission Corporation Ltd. before the High Court of Delhi which appeal by virtue of an order made by us on 26.8.2003 stood transferred to this Court for final disposal by this Court.

4. We have heard learned counsel for the parties for some time. The learned Additional Solicitor General appearing for the appellants in the Transferred Case, under instructions from his clients, submitted that he is withdrawing Company Appeal (B)-3/1998 titled Power Grid Corporation India Ltd. v. Shree Cement Ltd. and Ors. which is since transferred to this Court as per the orders referred to hereinabove, the consequence of which would be that the said Power Grid Corporation will have to argue Company Petition No. 3/111/1994 pending before the Company Law Board, Northern Region Bench, New Delhi, which petition came to be restored by the Company Law Board (the Board) as per its order dated 28.4.1998 on merits.

5. Though I.A. Nos. 4 and 5 in disposed of C.A. No. 14420 of 1996 also involve some common questions which may arise for consideration before the Board in the said company petition, we think it appropriate that the Board should first dispose of that petition before we take up said IAs. 4 and 5 for consideration and disposal. Bearing in mind the fact that we are keeping the said applications pending in this Court as also the fact that the dispute between the two parties which is the subject-matter of Company Petition No. 3/111/1996-CLB has arisen as far back as in the year 1990 giving rise to a large number of litigations in the Special Court constituted under the Special Courts (Trial of Offences relating to Transactions in Securities) Act 1992 as well as before the Board, we think it is necessary that the aforesaid company petition should be heard and finally disposed of within a period of 3 months from the receipt of this order by the Company Law Board, Northern Region Bench, New Delhi. With this view, we direct I.A. Nos. 4 and 5 in disposed of C.A. No. 14420 of 1996 be posted for further orders on 28.1.2004 by which time we hope a copy of the final order of the Board in the said company petition would be available to the parties concerned and appropriate decisions would have been taken by the said parties in the light of the discussions that have taken place in the course of the arguments in these cases in Court.

6. With a view to expedite payments of the legitimate claims of the parties, we direct the Custodian who is represented by his counsel Mr. A. Subba Rao in these proceedings, to find out if any pro rata payment is possible, either to the Power Grid Corporation or Shree Cement Ltd. from out of the funds available with the Custodian on account of Fair Growth financial Services Ltd., a notified company. If so, the amount so available to be paid to either of the parties named above, be made known to this Court on the next date of hearing.

7. We also direct the Board to decide all the issues involved before it and give a finding without reference to the fact that the bonds in question have since matured.

8. Consequently, the Transferred Case No. 54/03 stands dismissed as withdrawn.