

ITEM NO.17

COURT NO.4

SECTION IX

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No(s). 3885-3887/2014

(Arising out of impugned final judgment and order dated 17/07/2013 in AA No. 16/2012 17/07/2013 in CA No. 46/2012 17/07/2013 in CA No. 47/2012 passed by the High Court of Bombay at Nagpur)

ACB LTD

Petitioner(s)

VERSUS

MAHARASHTRA STATE POWER GEN. CO. LTD&ORS

Respondent(s)

(For Final Disposal)

WITH

SLP(C) No. 3219/2014

Interim Relief and Office Report)

SLP(C) No. 3385/2014

(With appln.(s) for permission to file lengthy list of dates and
(With Interim Relief and Office Report)

SLP(C) No. 3578/2014

(With Interim Relief and Office Report)

SLP(C) No. 3579/2014

(With appln.(s) for permission to file lengthy list of dates and
Interim Relief and Office Report)

SLP(C) No. 3585/2014

(With appln.(s) for permission to file lengthy list of dates and
Interim Relief and Office Report)

SLP(C) No. 3589/2014

(With appln.(s) for permission to file lengthy list of dates and
Interim Relief and Office Report)

SLP(C) No. 3595/2014

Interim Relief and Office Report)

SLP(C) No. 3597/2014

(With appln.(s) for permission to file lengthy list of dates and
Interim Relief and Office Report)

SLP(C) No. 3598/2014

(With Interim Relief and Office Report)

SLP(C) No. 3890-3892/2014

(With Office Report)

SLP(C) No. 3893-3895/2014

(With Office Report)

SLP(C) No. 3897-3899/2014

(With Office Report)

SLP(C) No. 3901-3902/2014

(With Office Report)

SLP(C) No. 3903-3904/2014
 (With Office Report)
 SLP(C) No. 3905-3906/2014
 (With Office Report)
 SLP(C) No. 3907-3908/2014
 (With Office Report)
 SLP(C) No. 3909-3911/2014
 (With Office Report)

Date : 30/08/2016 These petitions were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE DIPAK MISRA
 HON'BLE MR. JUSTICE C. NAGAPPAN

For Petitioner(s) Mr. P.H. Parekh, Sr. Adv.
 Mr. E.R. Kumar, Adv.
 Mr. Sumit Goel, Adv.
 Mr. Kshatrshal Raj, Adv.
 Mr. Shoumick Ghoshal, Adv.
 Mr. Siddharth Sijoria, Adv.
 Mr. Abhishek Vinod Deshmukh, Adv.
 Ms. Akanksha Mehra, Adv.

For M/s. Parekh & Co., Adv.

Ms. Nandini Gore, Adv.
 Ms. Devina Sehgal, Adv.
 Ms. Neha Khandelwal, Adv.
 Ms. Manik Karanjawala, Adv.

For M/s. Karanjawala & Co.

For Respondent(s) Ms. Vibha Datta Makhija, Sr. Adv.
 Mr. Jag Vijay Gandhi, Adv.
 Ms. Disha V., Adv.
 Mr. Abhinav Mukerji, AOR

Mr. Sanjay Kapur, Adv.
 Ms. Megha Karnwal, Adv.
 Ms. Priyanka Das, Adv.

Mr. Vipin Jai, Adv.
 Mr. Shailly Dinkar, Adv.

Ms. Jagriti Ahuja, Adv.

Mr. P.S. Sudheer, Adv.
 Mr. Rishi Maheshwari, Adv.
 Ms. Anne Mathew, Adv.
 Ms. Shruti Jose, Adv.

Mr. D.V. Raghu Vamsy, Adv.
Mr. A.V. Rangam, Adv.
Mr. Buddy A. Ranganadhan, Adv.

UPON hearing the counsel the Court made the following
O R D E R

It is submitted by Ms. Vibha Datta Makhija, learned senior counsel for the respondent that the High Court has correctly dismissed the applications in view of the language employed in the bank guarantee furnished by the 'Yes Bank' on behalf of the petitioner in favour of the respondent, i.e., Maharashtra State Power Generation Co. Ltd. Learned senior counsel would submit that it is an unconditional bank guarantee and the bank has unequivocally undertaken to honour the same and the conditions ment for invocation in clauses (a) to (c) were duly complied with by the respondent and, therefore, the High Court has rightly not granted injunction as regards the encashment of bank guarantee. It is further urged that Section 9 of the Arbitration and Conciliation Act, 1996 would not empower the Court to pass an order for restraining the bank or the owner to encash the bank guarantee on the ground that the arbitral proceedings are pending before the arbitrator. Additionally, it is contended that the ground of fraud urged in the special leave petition is vague and, in fact, the fraud must relate to the encashment of bank guarantee and not otherwise.

Learned counsel fro the petitioner prays for some time.

Let the matter be listed on 15.09.2016.

(Gulshan Kumar Arora)
Court Master

(H.S. Parasher)
Court Master