

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 78 OF 2022
(Arising out of SLP(C) No. 8639/2020)

LIFE INSURANCE CORPORATION OF INDIA
& ANR.

APPELLANT(s)

VERSUS

B.N.P SRIVASTAVA & ORS.

RESPONDENT(s)

O R D E R

Leave granted.

The learned Single Judge is in seisin of the dispute and by order dated 09.07.2018 was pleased to admit the writ petition filed by the appellants and stayed further proceedings in Certificate Case No. 322 of 2017. Instead of moving any application for vacation of this order, the respondent No. 1 straightaway preferred the LPA which was admitted by the order dated 18.02.2020 and the operation of the ex parte order granted by the learned Single Judge was stayed with a direction that the appeal should be heard on its own turn.

In our view, the affect of the impugned order would be to vacate the injunction without hearing the appeal.

We are of the view that if the respondent No. 1 was aggrieved by the order dated 09.07.2018, the appropriate course would have been to approach the learned Single Judge for necessary orders.

In view of the aforesaid, we set aside the order dated 18.02.2020 and leave it to the respondent No. 1 to move the learned Single Judge for appropriate orders for variation of the interim stay granted on 09.07.2018. The learned Single Judge may also consider whether the matter as a whole itself can be disposed of.

The appeal is allowed in the aforesaid terms leaving the parties to bear their own costs.

.....J.
[SANJAY KISHAN KAUL]

.....J.
[M.M. SUNDRESH]

NEW DELHI,
JANUARY 04, 2022.

ITEM NO.26 Court 6 (Video Conferencing) SECTION XVI

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). 8639/2020

(Arising out of impugned final judgment and order dated 18-02-2020 in LPA No. 1125/2018 passed by the High Court Of Judicature At Patna)

LIFE INSURANCE CORPORATION OF INDIA & ANR. Petitioner(s)

VERSUS

B.N.P SRIVASTAVA & ORS. Respondent(s)

IA No. 102208/2020 - APPLICATION FOR PERMISSION TO FILE ADDITIONAL DOCUMENTS)

IA No. 110244/2021 - CONDONATION OF DELAY IN FILING COUNTER AFFIDAVIT)

Date : 04-01-2022 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SANJAY KISHAN KAUL
HON'BLE MR. JUSTICE M.M. SUNDRESH

For Petitioner(s) Mr. Kailash Vasudev, Sr. Adv.
 Mr. Ashok Panigrahi, AOR
 Mr. Nabab Singh, Adv.
 Ms. Geetanjali, Adv.

For Respondent(s) Mr. Bankey Bihari Sharma, AOR

 Mr. K.M. Nataraj, Ld. ASG
 Mr. Sharath Nambiar, Adv.
 Mr. Vatsal Joshi, Adv.
 Mr. Prashant Singh (B), Adv.
 Ms. Indira Bhakar, Adv.
 Mr. Amrish Kumar, AOR

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

Delay in filing counter affidavit is

condoned.

Leave granted.

The appeal is allowed in terms of the signed order leaving the parties to bear their own costs.

Pending application stands disposed of.

[CHARANJEET KAUR]
ASTT. REGISTRAR-cum-PS

[POONAM VAID]
COURT MASTER (NSH)

[Signed order is placed on the file]