

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS. 10429-10430 OF 2014
(Arising out of SLP(C) Nos. 27562-27563 of 2012)

M/S B.H.E.L.

Petitioner(s)

VERSUS

B SAROJA DEVI ETC.ETC.

Respondent(s)

WITH

CIVIL APPEAL NOS. 10431-10432 OF 2014
(Arising out of SLP(C) No. 25755-25756 of 2013)

O R D E R

Leave granted.

These appeals have been preferred by the original plaintiff - M/s Bharat Heavy Electricals Ltd. against the common impugned judgment dated 31st May, 2012 passed by the High Court of Karnataka at Bangalore in RFA No. 608 of 2002 and 609 of 2002. The aforesaid appeals were preferred by the respondent-defendant against the judgment and decree dated 22nd February, 2002 passed by the XXXI Additional City Civil Judge at Bangalore in O.S. No.285 of 1984 and 286 of 1984.

The appellate court by impugned judgment observed and directed as follows:

"6. The defendants in both the suits admit the agreements for sale of the properties mentioned in the suits. They have resisted the suit firstly on the ground that the purchase has failed to pay the

balance amount within a period of one year from the date of the agreement and therefore, the advance received from the company forfeited after the suit agreements were canceled; secondly on the ground that the agreement stood lapse by the time and it had become unenforceable and valid by the reasons of the terms of the agreement to the value of the property prevailing in the year 1980; and thirdly on the ground that the limitation for filing the suit for comply in terms of the agreement is lapsed as early as in the year 1978 and therefore the present suit filed in the year 1984 is time barred."

The appellants have assailed the impugned judgment on one of the grounds that the High Court without any basis decided the quantum of amount of Rs.2 Crores. Further, according to the appellant the suits were barred by limitation and there was no willingness on the part of the plaintiff to purchase the suit property.

Having heard learned counsel for the parties, we are of the view that while coming to conclusion that no case is made out to direct specific performance of contract but to award compensation, the quantum should be arrived at based on certain factors such as the amount for which the contract for the agreement was reached between the parties, the number of years passed in the meantime, who was responsible for such delay etc. In the present case though Court was of the opinion that no case was made out for specific performance but to award compensation, the High Court was not

justified in directing the appellant hefty compensation of two crores without discussing the factors and ground, particularly when agreement for sale was reached for Rs.41,151/- and there was no willingness on the part of the respondent-plaintiffs.

In view of the reasons as stated above, we set aside common impugned judgment dated 31st May, 2012 passed by the High Court of Karnataka at Bangalore in RFA No.608 of 2002 and 609 of 2002 and remit both the appeals to the High Court for its decision on the question of award of compensation after giving notice and hearing the parties uninfluenced by the order passed by the High Court and the order passed by this Court.

The appeals stand disposed of.

.....J.
(SUDHANSU JYOTI MUKHOPADHAYA)

.....J.
(N.V. RAMANA)

NEW DELHI;
NOVEMBER 18, 2014

ITEM NO.12

COURT NO.4

SECTION IVA

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) .
27562-27563/2012

(Arising out of impugned final judgment and order dated 31/05/2012
in RFA No. 608/2002,31/05/2012 in RFA No. 609/2002 passed by the
High Court Of Karnataka At Bangalore)

M/S B.H.E.L.

Petitioner(s)

VERSUS

B SAROJA DEVI ETC.ETC.

Respondent(s)

(With appln. (s) for permission to file additional documents and
interim relief and office report)
(For final disposal)

WITH

SLP(C) No. 25755-25756/2013
(With Office Report)

Date : 18/11/2014 These petitions were called on for hearing
today.

CORAM :

HON'BLE MR. JUSTICE SUDHANSU JYOTI MUKHOPADHAYA
HON'BLE MR. JUSTICE N.V. RAMANA

For Petitioner(s)

Mr. B. K. Satija, Adv.

Mr. Amit S. Chaddha, Sr. Adv.

Mr. Balaji Srinivasan, Adv.

Mr. Mayank Kshirsagar, Adv.

Ms. Srishti Govil, Adv.

Ms. Vaishali Dixit, Adv.

Ms. Vaishanavi Subrahmanyam, Adv.

For Respondent(s)

Mr. Amit S. Chaddha, Sr. Adv.

Mr. Balaji Srinivasan, Adv.

Mr. Mayank Kshirsagar, Adv.

Ms. Srishti Govil, Adv.

Ms. Vaishali Dixit, Adv.

Ms. Vaishanavi Subrahmanyam, Adv.

UPON hearing the counsel the Court made the following

O R D E R

Leave granted.

The appeals stand disposed of in terms of signed order.

(Neeta)

Sr. P.A.

(Signed order is placed on the file)

(Suman Jain)

COURT MASTER