

National Insurance Co. Ltd.

Vs

Satima Cold Storage (P) Ltd.

SLPs (C) No. 13194 of 1998 with No. 14236 of 1998

(Dr. A. S. Anand, D. P. Wadhwa JJ)

14.09.1998

ORDER

1. In the affidavit in opposition, filed on behalf of Respondent 1 to the special leave petition, it is stated in para XXV that the learned Senior Counsel appearing for the petitioner did not press the grounds, as detailed in the application and made a concession that he was only praying for expeditious hearing of the suit. In the rejoinder filed, on the affidavit of Shri H. K. Sharma, it is stated in response to para XXV that no concession, as alleged in the counter, was made by the Senior Counsel on 8-7-1998 nor was it submitted that he was not pressing the grounds in the transfer petition or that his only prayer was for expeditious hearing of the suit.
2. In the counter-affidavit, the basis for making the statement is not disclosed and the rejoinder-affidavit is equally silent on that issue. The matter is rather serious. If a concession had been made by a Senior Counsel and he had not pressed the application for transfer of the case in the High Court, then the filing of the special leave petition in this Court, without disclosing that fact, would amount to suppression of facts, not entitling the petitioner to any discretionary relief under Article 136 of the Constitution of India, and on the other hand, if no concession was made, the very ground on which the application is resisted by Respondent 1 would fall flat and Respondent 1 would be guilty of misleading the Court. We, therefore, think it appropriate to direct the parties to file proper affidavits with regard to source of information, knowledge and the correctness of the averments, as contained in para XXV of the counter-affidavit and para 13 of the rejoinder-affidavit where para XXV has been controverted. Let the needful be done within four weeks.
3. List the matter after four weeks.

Court Masters