

**SUPREME COURT OF INDIA**

Parasrampuria Synthetics Ltd.

Vs.

CEAT Financial Services Limited

C.A.No.17 of 2000

(Dr. A. S. Anand, C.J.I., and R. C. Lahoti, J.)

04.01.2000

**ORDER**

1. Leave granted.

2. The contesting respondent who is present on caveat has filed a counter affidavit. Learned Counsel appearing for the contesting respondent waives formal notice. Learned counsel for the parties pray for the appeal to be taken up for hearing at this stage itself.

3. Heard.

4. In view of the developments which have taken place during the course of arguments, before us, it is not necessary for us to trace the entire history leading to the filing of the present appeal by special leave. Suffice it to notice that a suit being Civil Suit No. 3287/97 has been filed by the Industrial Credit and Investment Corporation of India (ICICI) for recovery of certain loan amount from the

appellant herein. A notice of motion was taken out by the ICICI for appointment of a Court Receiver in the suit. Certain interim relief came to be granted and a Court Receiver was appointed in respect of the property detailed in the schedule to the notice of motion. The contesting respondent herein (not a party to the suit) took out a notice of motion in the suit being notice of motion No. 1359/97 stating that receiver be also appointed for the machinery which had been leased out by the contesting respondent to the appellant. The learned single Judge noticed that since the contesting respondent was not a party to the suit and there was also some doubt about the identification of the machinery therefore the notice of motion was not maintainable at the instance of the contesting respondent. The learned single Judge left it open to the contesting respondent herein to take appropriate proceedings and seek necessary relief. On an appeal filed by the contesting respondent, the Division Bench of the High Court interfered and granted notice of motion filed by the contesting respondent and appointed a Receiver for the machinery detailed in the schedule to the Notice of Motion. The appellant has filed this appeal by special leave.

5. During the course of arguments, Mr. Gopal Subramaniam, learned senior counsel appearing for the contesting respondent submitted that since the contesting respondent has already invoked the arbitration clause, he is instructed to submit that the notice of motion filed by the contesting respondent in the present proceedings, being Notice of Motion No. 1359/97, may be dismissed as withdrawn because the contesting respondent has been advised to take recourse to appropriate proceedings for seeking relief. We record the statement of the learned counsel for the contesting respondent.

6. In view of the statement made by Mr. Gopal Subramaniam, learned senior counsel, we dismiss the notice of motion taken out by the contesting respondent as withdrawn. Consequently, the impugned order of the Division Bench of the High Court has now lost all its vitality and is hereby set aside. Any action taken by the Receiver pursuant to the order of the Division Bench shall stand vacated.

7. The appeal is disposed of in the above terms. No costs.

Order accordingly.