

SUPREME COURT OF INDIA

Shyam Sunder Kejriwal

Vs.

Bombay Paper Trading Company

S.L.P. (C) No. 11002-11003 of 2003

(B. N. Agarwal and H. K. Sema JJ.)

29.07.2004

ORDER

1. Heard learned counsel for the parties.
2. Leave granted.
3. By order dated 10.6.1999, learned Single Judge of the Bombay High Court granted leave to the defendant to contest claim in a summary suit filed under order 37 of the Code of Civil Procedure on defendant's depositing the principal amount together with interest @ 21 per cent per annum from due date till the date of filing of the suit and thereafter simple interest @ 12 per cent per annum on the principal amount from the date of filing of the suit till the date of the order. The said order was confirmed in appeal by the Division Bench. Hence this appeal by grant of special leave.
4. At the time of issuing notice this Court directed that operation of the impugned order directing the appellant to deposit 100 per cent of the claim shall remain stayed on the appellants' depositing only the principal amount claimed in the suit within a period of two weeks, which amount has been duly deposited within time. During the course of arguments, both the parties agreed that the impugned orders should be modified to the extent that appellant is required to deposit only principal amount of the claim by way of security for grant of leave to defend the claim which he has already deposited.
5. For the aforesaid reasons and as agreed to by the parties the appeals are allowed and impugned orders are modified to the aforesaid extent only. The respondents, however, will be at liberty to withdraw the amount deposited by the appellant on furnishing security which need not be either cash or in the form of bank guarantee to the satisfaction of Prothonotary and senior Master of the High Court.
6. The appeals are disposed of accordingly.