

SUPREME COURT OF INDIA

Sachin Kelkar & Anr.

Vs.

Homai Mahal Premises Cooperative Society Ltd. & Ors.

C.A.No.10150-10151 of 2016

(Shiva Kirti Singh and R.Banumathi,JJ.,)

07.10.2016

ORDER

1. Heard the parties.

2. Permission to file SLP is granted.

3. Leave granted.

4. On behalf of the appellants, an Affidavit dated 6th October, 2016 has been placed before us in which it is stated that the appellant- Sachin Kelkar was arrested by the police on 3rd October, 2016 and had been taken to Mumbai. In response to some signatureNotvqueries made by this Court on 3rd October, 2016,

5. Digitallysignedlby NEELAM GUHWTI Date: 20W10.17 certain submissions have also been recorded in paragraph 3 of the Affidavit.

6. In paragraph 4 it has been stated by the appellant- Sachin Kelkar that he is not running away from any proceedings or shirking away from his responsibilities and undertakes to comply with the affidavit as may be ordered by this Court.

7. Mr. Shyam Diwan, learned senior counsel, on the other hand, has produced before this Court an order dated 4th October, 2016 passed by the High Court of Judicature at Bombay in Commercial Arbitration Petition (L) No. 81 of 2016 etc., i.e. in the same very proceedings from which the impugned order arises. That order shows that on being produced before the High Court on 4th October, 2016, the appellant has made certain submissions which are recorded in para 5 of that order which runs as follows:

"In view of the NBW dated 19.09.2016 issued by this Court, Mr. Sachin Kelkar is today produced before this Court. He has informed the Court that he will be submitting a Schedule of payments towards the arrears of compensation payable to

the members of the Society, as also the arrears of property taxes payable to the Corporation and he shall also submit to this Court a time frame within which the construction work would be completed. He undertakes to remain present before this Court as and when directed to do so. The undertaking is accepted. In view of the fact that Shri Sachin Kelkar is already arrested in FIR No. 296 of 2016, no further orders are warranted from this Court. Place the matter on 15th October, 2016 at 3.00 p.m. By way of assistance to this Court to pass protective orders in the Arbitration Petition, the EOW shall file its investigation report in a sealed cover before this Court also on 15th October, 2016."

8. The Affidavit is taken on record. In our considered view, it would be appropriate that the matter should now proceed at the level of High Court keeping in view the stand of the appellant- Sachin Kelkar before this Court as well as before the High Court. It is made clear that we have not gone into the merits of the matter and parties shall be at liberty to make their statements and supply facts and figures as may be available to them to secure their interest. We have been informed that on account of criminal proceedings initiated by the Economic Offences Wing (EOW), appellant-Sachin Kelkar is in custody. It will be open for the appellant- Sachin Kelkar to pursue his remedy for release from custody in accordance with law. It is made clear that with appellant's production before the High Court, the purpose of non-bailable warrant issued at the instance of the High Court has already been served, he is not to be detained any further pursuant to that warrant.

9. Appeal is disposed of.