

M/S India Cements Capital Ltd. vs William on 12 August, 2021

Bench: A.M. Khanwilkar, Sanjiv Khanna

1

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.4758 OF 2021
(Arising out of SLP(Civil) No. 18468 of 2018)

INDIA CEMENTS CAPITAL LTD.

Appellant(s)

VERSUS

WILLIAM & ORS.

Respondent(s)

O R D E R

Leave granted.

Heard learned counsel for the parties. For the nature of order that we propose to pass, it is not necessary to dilate on the factual matrix of the case.

Suffice it to observe that the appellant may have to proceed in respect of the mortgage property, to enforce the debt due under the agreement dated 29.07.1998 executed between the appellant and respondent Nos. 2 and 3 (original owners of the property), by way of appropriate civil action. The appellant may do so within six weeks from today, if so advised. Reason: we direct the respondents in particular respondent No. 1, to maintain status quo in respect of the immovable property in question for a period of six weeks from today. In the proposed proceedings, it will be open to the appellant to apply for interim directions as may be required, which application ought to be considered on its own merits by the concerned Court. Equally, the proceedings to be filed by the appellant in respect of the mortgage as claimed be decided in accordance with law.

Further, the appellant may take recourse to appropriate proceedings, including criminal action, if so advised, on the assertion that the stated transaction is fraudulent.

Furthermore, the appellant has the right to enforce the award against respondent Nos. 2 and 3 as a money decree but not for enforcement of mortgage, for which the appellant may take recourse to appropriate civil remedy. That proceedings be taken to its logical end in accordance with law.

In light of the aforesaid, it is unnecessary to dilate on the petition filed by respondent No. 1 under Section 47 of the Code of Civil Procedure, which stands disposed of in the above terms.

Accordingly, the impugned High Court order is clarified and modified to the above extent. The appeal is disposed of in the above terms. No order as to costs.

Pending applications, if any, shall stand disposed of.

.....J (A.M. KHANWILKAR)J (SANJIV KHANNA) New Delhi;

August 12, 2021.

ITEM NO.5	Court 3 (Video Conferencing)	SECTION XI-A
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).	18468/2018
(Arising out of impugned final judgment and order dated in CRP No. 116/2014 passed by the High Court of Ernakulam)		18-08-2015 Kerala at
M/S INDIA CEMENTS CAPITAL LTD.		Petitioner(s)
	VERSUS	
WILLIAM & ORS.		Respondent(s)

Date : 12-08-2021 This petition was called on for hearing today. CORAM :

HON'BLE MR. JUSTICE A.M. KHANWILKAR HON'BLE MR. JUSTICE SANJIV KHANNA For Petitioner(s) Mr. R. Anand Padmanabhan, Adv.

Mr. Kaustubh Bhardwaj, Adv. Mr. Ajay Sejwal, Adv.

Ms. Debarati Sadhu, Adv. Mr. Ashwani Bhardwaj, AOR For Respondent(s) Mr. Romy Chacko, AOR Mr. Shakthi Chand Jaidwal, Adv. Mr. Aswin Romy, Adv.

Mr. Alok Shankar, Adv.

Mr. Vikas Upadhyay, AOR Ms. Priyambada Mishra, Adv.

UPON hearing the counsel the Court made the following O R D E R Leave granted.

The appeal is disposed of in terms of signed order. Pending applications, if any, shall stand disposed of.

(NEETU KHAJURIA)
COURT MASTER

(VIDYA NEGI)
COURT MASTER

(Signed order is placed on the file.)