

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S) 10150-10151 2016  
(Arising out of SLP(C) Nos. 30431-30432 2016)  
(Arising out of SLP(C)....CC Nos.18325-18326 of 2016)

SACHIN KELKAR AND ANR.

Appellant(s)

VERSUS

HOMAI MAHAL PREMISES COOPERATIVE  
SOCIETY LTD. AND ORS.

Respondent(s)

O R D E R

Heard the parties.

Permission to file SLP is granted.

Leave granted.

On behalf of the appellants, an Affidavit dated 6<sup>th</sup> October, 2016 has been placed before us in which it is stated that the appellant- Sachin Kelkar was arrested by the police on 3<sup>rd</sup> October, 2016 and had been taken to Mumbai. In response to some queries made by this Court on 3<sup>rd</sup> October, 2016, certain submissions have also been recorded in paragraph 3 of the Affidavit.

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.

Mr. Shyam Diwan, learned senior counsel, on the other hand, has produced before this Court an order dated 4<sup>th</sup> 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 4<sup>th</sup> 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 15<sup>th</sup> 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 15<sup>th</sup> October, 2016."

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.

Appeal is disposed of.

.....J  
(SHIVA KIRTI SINGH)

.....J  
(R. BANUMATHI)

NEW DELHI  
October 07, 2016

ITEM NO.59

COURT NO.11

SECTION IX

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C).....CC No(s).  
18325-18326/2016

(Arising out of impugned final judgment and order dated 29/08/2016  
in CAP No. 81/2016 19/09/2016 in CAP No. 81/2016 passed by the High  
Court Of Bombay)

SACHIN KELKAR AND ANR.

Petitioner(s)

VERSUS

HOMAI MAHAL PREMISES COOPERATIVE SOCIETY LTD.  
AND ORS.

Respondent(s)

(with appln. (s) for permission to file SLP)

Date : 07/10/2016 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SHIVA KIRTI SINGH  
HON'BLE MRS. JUSTICE R. BANUMATHI

For Petitioner(s) Mr. Aman Vachhar, Adv.  
Mr. Ashutosh Dubey, adv.  
Mr. Harsh Sharma, Adv.  
Mr. Abhishek Chauhan, Adv.  
Mr. Sagar Mehra, Adv.  
Mr. P. N. Puri, Adv.

For Respondent(s) Mr. Shyam Divan, Sr. Adv.  
Mr. Sunil Fernandes, Adv.  
Mr. Vikhil Dhoka, Adv.  
Mr. Pradeep Bhat, Adv.  
Mr. Puneeth K.G., Adv.  
Mr. Nikesh Tyagi, Adv.

Mr. Mohit Paul, Adv.  
Ms. Diksha Jhingan, Adv.

UPON hearing the counsel the Court made the following  
O R D E R

Heard the parties.

Permission to file SLP is granted.

Leave granted.

Appeal is disposed of in terms of the signed order.

(NEELAM GULATI)  
COURT MASTER

(MADHU NARULA)  
COURT MASTER

(Signed order is placed on the file)