

SLP(C)No. 5999-6000 OF 2003
ITEM No.54

Court No.10

SECTION IX
A/N MATTER

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 (Civil) No.5999-6000/2003

(From the judgement and order dated 10/12/2002 in WP 4707/01
of The HIGH COURT OF BOMBAY)

M/S. AMIT KUMAR AJAY KUMAR & BROS.

Petitioner (s)

VERSUS

M/S.CITY&INDTL.CORP.,MAHARASHTRA LTD&ORS

Respondent (s)

(With prayer for interim relief)
(With Appln(s). for vacating stay)

Date : 28/07/2003 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE BRIJESH KUMAR
HON'BLE MR. JUSTICE ARUN KUMAR

For Petitioner (s) Mr. Harish N.Salve,Sr. Adv.
Mrs. Rakhi Ray, Adv.
Mr. Gopal Jain, Adv.

Ms. Bina Gupta,Adv.

For Respondent (s)Mr. Altaf Ahmad, ASG
Mr. A.S. Bhasme,Adv.

Mr. T.R. Andhyarujina, Sr. Adv.
Mr.Syed Naqvi, Adv.
Mr. Birender Chaudhary, Adv.
Ms.Aziza Aabdul Latif Khatri, Adv.

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

Leave granted.

The appeals are allowed. The order passed by the High Court is set aside. The writ petition shall be considered by the High Court on merits. The parties would be at liberty to move any appropriate application as may be advised which shall be disposed of on merits on hearing the objections if any. Interim order stands discharged.

Sukhwinder (Kanwal Singh)
Court Master

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO..... OF 2003
(Arising out of SLP Nos.5999-6000/2003)

M/s.Amit Kumar Ajay Kumar & Bros..... Appellant (s)

VS.

M/s. City & Industrial Corpn., Maharashtra

..... Respondent (s)

Ltd. & Ors.

O R D E R

Leave granted.

Heard learned counsel for the parties.

While issuing notice, it was provided that the respondents may show cause as to why the case should not be remanded to the High Court to be heard and decided on merits. We have perused the affidavits exchanged between the parties. It is admitted in paragraph 3 of the Counter Affidavit of respondent No.1, the Corporation, that it is a government company. The State Government acquired land and vested it in Respondent No.1 for planned development and its disposal

That being the position, we hardly find any good reason for the High Court to have directed the appellant to seek alternative remedy by filing a suit in the civil court. Needless to emphasise that actions of such bodies entrusted with such functions and public duties are amenable to writ jurisdiction of the High Court; to examine whether their actions, complained of discrimination and arbitrariness, conform to the parameters set particularly under article 14 of the Constitution or not.

The easy course found by the High Court in passing on the matter to the civil court cannot be appreciated, more so in absence of any cogent reason. At the same time, we notice that while passing the above order, on the ground of alternative remedy, the High Court also provides that "all actions taken by the respondents after grant of ruling in this petition shall remain subject to the adjudication of the litigation that may be commenced by the petitioner in appropriate civil court". It is also informed that the application for interim relief has also been rejected.

We, therefore, allow the appeal and set aside the order passed by the High Court. The writ petition shall be considered by the High Court on merits. The parties would be at liberty to move any appropriate application as may be advised which shall be disposed of on merits on hearing the objections if any. Interim order stands discharged.

.....J.

(Brijesh Kumar)

.....J.

(Arun Kumar)

New Delhi,
July 28, 2003.