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SLP(C)No. 8375 OF 2000

ITEM No.202

Court No. 1

SECTION IVA  
A/N MATTER

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 (Civil) No.8375/2000

(From the judgement and order dated 10/04/2000 in WP 23429/98  
of The HIGH COURT OF KARNATAKA AT BANGALORE)

K. HARISH RAI & ORS.

Petitioner (s)

VERSUS

MYSORE URBAN DEVELOPMENT AUTHORITY & ORS Respondent (s)  
( With Appln(s). for urging addl. grounds and deletion of the name of  
respondent Nos. 20, 24, 26 and 28 from the array of parties and  
with prayer for interim relief )

( For Final Disposal )  
With

SLP(C)No.8714/2000  
( with prayer for interim relief )

( For Final Disposal )

Date : 21/09/2001 These Petitions were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE  
HON'BLE MR. JUSTICE R.C. LAHOTI  
HON'BLE MR. JUSTICE P. VENKATARAMA REDDI

For Petitioner (s) Mr. Ranjit Kumar, Sr. adv.  
Mr. E.C. Vidya Sagar, adv.  
Mr. Venugopal Gowde, adv.  
Mr. B K Choudhary, adv.

For Respondent (s) Mr. S S Javali, Sr. adv.  
Mr. P.R. Ramasesh, adv.  
  
Mr. K.K. Mani, adv.  
  
Mr. M.A.Chinnasamy, adv.  
  
Mr. N. Ganpathy, adv.  
Mr. Sanjeev Puri, adv.  
  
Mr. K H Nobin Singh, adv.  
Mr. S K Kulkarni, adv.

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

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SLP(C) 8375/2000@@  
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No orders on I.A. 2  
Leave granted in Special Leave Petition.  
The appeal is disposed of in terms of the  
signed order. No costs.

SLP(C) 8714/2000@@  
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The petition is disposed of in terms of the  
signed order.

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(Kanchan Jain)  
AR-cum-PS

(Prem Prakash)  
Court Master

Signed order is placed on the file.

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.UP 10 2; Draft, smtst; -n -PA4 -dFX-NORMAL -y -e; dumbp

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IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 6609 OF 2001@@  
CC

arising out of

SPECIAL LEAVE PETITION (C) NO. 8375 OF 2000@@  
CC

K. Harish Rai & Ors. ....Appellants

VS.

Mysore Urban Development Authority ....Respondents  
& Ors.

WITH

SPECIAL LEAVE PETITION (C) NO. 8714 OF 2000@@  
CC

P. Jayram & Ors. ....Petitioners

VS.

Pradeep Kumar & Ors. ....Respondents

SLP(C) NO. 8375 OF 2000@@  
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No orders on I.A. 2.

Leave granted in Special Leave Petition.

The controversy before us lies in a rather limited sphere. Writ Petition No. 23429 of 1998 was filed by Shri Pradeep Kumar & Ors. seeking a direction from the High Court to respondent No. 1 - Mysore Urban Development Authority (hereinafter "MUDA"), to take immediate steps to prevent all unauthorised constructions which were allegedly going on in different parts of Survey No. 1, Vijayashreepura, Mysore Kasaba. The writ petition had been filed as a public interest litigation.

We need not detain ourselves to reproduce the facts as alleged in the petition. We find that the writ petition was pending at the stage of admission when an interim order came to be made on 6th August, 1998 directing MUDA to ensure that no unauthorised construction takes place in Survey No.1 Vijayashreepura, Mysore Kasaba extension. While the matters rested thus, the appellants (respondent Nos. 19-40 in the writ petition) filed an application seeking to implead themselves as respondents.

It was the case of the appellants that they have purchased lands and raised constructions in the concerned area, which according to them, had been regularised and any adverse order made concerning those constructions was likely to affect them. Application for impleadment was allowed and appellants were impleaded as respondent Nos. 19 to 40. The record is silent as to whether after impleadment the appellants were given any opportunity to file their objections to the application for interim relief as also counter to the writ petition but by the impugned order dated 10th April, 2000, the Division Bench of the High Court issued certain directions in that petition. Inter alia, the Chief Secretary to the Government of Karnataka was directed to appoint a Special Officer to take immediate charge of the affairs of MUDA and see that "immediate action is taken to stop further unauthorised constructions already put up and not to give any electricity connection or water connection to such unauthorised constructions." The Karnataka Electricity Board was also directed to book all the cases of illegal tapping immediately and start prosecution besides collecting the amount. The Bench directed the Electricity Board to file an affidavit with regard to the action taken pursuant to the directions of the High Court by the next date.

The appellants, thereupon, filed this appeal by special leave, putting in issue the impugned interim order. It was alleged on behalf of the appellants that the High Court had erred in passing the impugned order of demolition without granting any opportunity to the appellants to have their say in the writ petition or in the application for grant of interim relief. According to Mr. Ranjit Kumar, learned Senior counsel appearing for the appellants, there has been a breach of fair play in action inasmuch as adverse interim orders have been made by the High Court without hearing the affected parties.

On 11th July, 2000, the following order was made by this Court:

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"Issue notice. The notice shall indicate that the respondents may show cause why the matter be not remanded to the High Court for deciding afresh after hearing the petitioners whose application for intervention was pending on the date when the impugned order was made.

Issue notice also on the stay application. In the meanwhile, in modification of the stay order granted on 9.5.2000, we grant stay of demolition of the structures during pendency of these petitions."

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Counter and rejoinder have been filed. After hearing learned counsel for the parties, and keeping in view the fact situation that writ petition is still pending disposal in the High Court, it appears appropriate to us, in the interest of justice and to see that there is due compliance with the Rules of Natural Justice, to make the following portion of the direction issued by us on 11th July, 2000 absolute:

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"In the meanwhile, in modification of the stay order granted on 9.5.2000, we grant stay of demolition of the structures during pendency of these petitions."

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We further direct that the above direction shall continue in operation in the High Court during the pendency of the writ petition. Impleaded respondent Nos. 19-40 (appellants herein) shall be granted an opportunity by the High Court to file their counters and response to the application for interim relief as well. After hearing learned counsel for the parties and examining the record, it shall be open to the High Court to pass fresh orders on the interim application and while doing so it shall not feel itself inhibited by our making interim direction dated 11th July, 2000 (supra) absolute.

We request the High Court to dispose of the writ petition expeditiously.

Nothing said hereinabove shall, however, be construed as any expression of opinion on the merits of the controversy, raised in the writ petition.

We wish to further clarify that to the extent that the High Court had directed stay of further construction at Survey No.1 Vijayashreepura, Mysore Kasaba, we do not interfere with that direction. It shall continue to remain in operation unless modified by the High Court, after hearing the parties.

The appeal is disposed of in the above terms. No costs.

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In view of our orders made in Civil Appeal No.

of 2001 arising out of SLP(C) No. 8375 of 2000 we permit the petitioners herein to file appropriate application in the High Court where Writ Petition No. 23429 of 1998 is pending for seeking proper relief.

The special leave petition is disposed of.

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.....CJI

.....J.  
(R. C. LAHOTI)

.....J.  
(P. VENKATARAMA REDDI)

New Delhi  
September 21, 2001.