

ITEM NO.MM-11A

COURT NO.11

SECTION IVA

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(s).12260/2011

(From the judgement and order dated 24/03/2011 in WP No.
1688/2006 of The High Court of Karnataka at Bangalore)

MR.JAWAHAR NAZARATH

Petitioner(s)

VERSUS

MRS.SOFIA RODRIQUEZ & ORS.
(With prayer for interim relief)

Respondent(s)

Date: 29/04/2011 This Petition was called on for hearing
today.

CORAM :

HON'BLE MR. JUSTICE G.S. SINGHVI
HON'BLE MR. JUSTICE ASOK KUMAR GANGULY

For Petitioner(s) Dr.Rajeev Sharma,Adv.
Ms.Shipra Shukla,Adv.
Mr.Bhanwar Pal Singh, Adv.

For Respondent(s)

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

This petition is directed against order dated
24.3.2011 passed by the Division Bench of the Karnataka High
Court whereby the writ petition filed by the respondents was
allowed and it was declared that the petitioner herein
(respondent no.4 before the High Court) cannot continue
commercial/semi-industrial activities at II Cross,
Shanthinagar, Jeppu, Mangalore and he was directed to shift his
activities to a proper location by 30th April, 2011.

We have heard Dr. Rajeev Sharma, learned counsel for the
petitioner at length and carefully scrutinized the record.

In

2

our view, the reasons recorded by the High Court for directing
the petitioner to shift his activities from the present site do
not suffer from any legal infirmity.

A perusal of the written statement filed by the Karnataka
State Pollution Control Board, the relevant paragraphs of which
have been extracted in the impugned order, shows that working
of the garage/workshop by the petitioner was causing noise and
other pollution in the residential area. The petitioner did
not produce any cogent evidence before the High Court to prove
that the area in which he was carrying on commercial/semi-
industrial activities was not residential. Rather, in para 3
of the impugned order, the High Court has noted that he did not
contest the fact that the area in question falls in residential
zone. Therefore, we do not find any valid ground or
justification to interfere with the impugned order.

The special leave petition is, accordingly, dismissed.

However, the petitioner is allowed two months' time to shift his activities from the present site. This would be subject to the following conditions:

1. The petitioner must stop all activities in the workshop/garage w.e.f. 30.04.2011.
2. The Commissioner of Police, Mangalore, is directed to depute a police officer of the rank of Deputy Superintendent of Police, who shall inspect the premises/garage on or before 3rd May, 2011 and submit a report to the High Court whether or not the petitioner has stopped the activities in the garage.

After shifting the workshop and/or garage, the petitioner should submit an affidavit in the High Court showing compliance of the directions contained in the impugned order. If the petitioner fails to comply with this order, the High Court shall initiate contempt proceedings against the petitioner

3

under the Contempt of Courts Act, 1971.

Copies of this order be sent to the Registrar General of the High Court of Karnataka and Commissioner of Police, Mangalore, by fax.

(KUSUM SYAL)
SR. P.A.

(PHOOLAN WATI ARORA)
COURT MASTER