

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(s).14692/2011

(From the judgment and order dated 29/03/2011 in WP No. 64254/2010 of The
HIGH COURT OF KARNATAKA AT BANGALORE)

SHIVASHAKTI SUGARS LTD Petitioner(s)

VERSUS

SHREE RENUKA SUGAR LTD & ORS. Respondent(s)

(With application for vacating stay, exemption from filing official
translation, permission to file additional documents, exemption from filing
certify copy as well as plain copy of the impugned order, with prayer for
interim relief and office report) [FOR FINAL DISPOSAL]

WITH

SLP(C) NO. 14693 of 2011

[SHIVASHAKTI SUGAR LTD. & ANR. V. KALLAPPA & ORS.]

(With application for exemption from filing certified copy as well as
plaincopy of the impugned order, exemption from filing official
translation, permission to file additional documents, permission to file
Volume-III, with prayer for interim relief and office report) [FOR FINAL
DISPOSAL]

SLP(C) NO. 32644 of 2011

[SHIVSHAKTI SUGARS LIMITED V. AJIT & ORS.]

(With office report)

SLP(C) NO. 32645 of 2011

[SHIVSHAKTI SUGARS LIMITED V. SHRI KUMAR S/O J.KAMAGOUDA & ORS.]

(With office report)

Date: 14/02/2013 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE R.M. LODHA

HON'BLE MR. JUSTICE MADAN B. LOKUR

For Petitioner(s)

SLP 14692

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SLP 14693

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SLP 32644

Ms. Kavita Wadia, Adv.

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For Respondent(s)

Mr. Vinod A. Bobde, Sr. Adv.

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SLP 14695

Mr. S.S. Naganand, Sr. Adv.
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UOI

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Mr. Shalinder Saini, Adv. for
Mrs. Anil Katiyar, Adv.

Mr. D.S. Mahra, Adv.

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Mr. Rameshwar Prasad Goyal, Adv.

Ms. Anitha Shenoy, Adv.

Mr. Naresh Kumar, Adv.

Mr. Ashok Kumar Sharma, Adv.

Mr. Venkita Subramoniam T.R., Adv.

Ms. Astha Tyagi, Adv.

Ms. Liz Mathew, Adv.

UPON hearing counsel the Court made the following

O R D E R

Para 6-A of the Sugarcane (Control) Order, 1966 which was inserted by Sugarcane (Control) (Amendment) Order, 2006 provides that no new sugar factory shall be set-up within the radius of 15 Kilometers of any existing sugar factory. Explanation 3 provides that minimum distance shall be determined as measured by the Survey of India.

2. One of the controversies raised in these Special Leave Petitions is about the distance between the petitioner's factory and sugar factories of M/s. Raibag Sahakari Sakkare Karkhane Niyamitha, Raibag (for short "Raibag Karkhane")' which is on lease with respondent No. 1 - Shree Renuka Sugar Ltd. (for short "Renuka Sugars") and M/s. Doodhganga Krishna Sahakari Sakkare Karkhane Niyamitha (for short "Doodhganga").

3. The petitioner got the distance between the sugar factories of Raibag Karkhane and Doodhganga measured by Survey of India, Karnataka Geo Special Data Centre, Bangalore by providing them the topo maps of the area and the sites marked by it on the topo maps.

4. In the impugned order, the High Court has observed as follows:

"On perusal of the approved plan, it shows that the factory is spread over in both villages. The entrance to Shivshakti (sic Doodganga) sugar factory is only in Soundatti village and other portion of the factory in Yadrav Village. Therefore, it is clear the entrance to Shivshakti (sic Doodganga) Sugar Factory is from Soundatti village and in Soundatti Village no sugar factory is situated. The sugar factory is in Yadrav Village. IEM is filed for setting up sugar factory at Soundatti Village and not at Yadrav Village. Therefore, the measurement ought to have been taken if at all from Yadrav Village where the factory is situated and as no IEM is filed for setting up a sugar factory at Yadrav Village, the Distance

Certificate issued by the Cane Commissioner and the measurement made by the Survey of India in the light of these undisputed facts do not depict the correct state of affairs."

5. Having regard to the above controversy, we are of the view that before the matter is heard, it will be appropriate if the Survey of India is asked to verify the distance between the petitioner's factory and sugar factory of Renuka Sugars and the distance between petitioner's factory and sugar factory of Doodhganga.

6. For the above purpose, we direct the petitioner to construct a pillar at the base of chimney of its factory and also direct Renuka Sugars who is having Raibag Karkhane on lease with them and Doodhganga to construct pillars at the base of their respective chimneys. This exercise shall be completed by the respective parties within 15 days from today.

7. On construction of the pillars, the respective parties shall intimate to the Cane Commissioner that pillars for the purpose of measurement have been constructed by them. The intimation shall be sent by the parties to the Cane Commissioner as early as may be possible but in no case later than 18 days from today. Upon such intimation, the Cane Commissioner shall verify whether the pillars have been put up at appropriate places by the parties for the purpose of measurement as directed by this Court and issue a certificate to that effect.

8. Based on the certificate so issued by the Cane Commissioner, the Survey of India shall have the distance measured between the petitioner's factory and factories of Raibag Karkhane and Doodhganga in accord with clauses C,D,E and F of the measurement policy dated January 1, 2008, details of which are set-out at page 635 (Volume-IV) of the paper book. The report shall be submitted by the Survey of India within two weeks of the verification.

9. List this group of matters on April 2, 2013.

|(Pardeep Kumar)
|Court Master

|(Renu Diwan)
|Court Master

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