

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(s). 2163 OF 2009

MADAN PARMALIYA

Appellant(s)

VERSUS

STATE OF MADHYA PRADESH AND OTHERS

Respondent(s)

O R D E R

Encouraged by an apparently liberal approach adopted by the High Court in entertaining the petition filed by Center for Environment Protection Research and Development, Indore, a trust formed with the above object of protecting general health and protection of environment in city of Indore, wherein the constitutional validity of Sections 14, 16, 17A, 18(2) and 20 of the Madhya Pradesh Nagar Tatha Gram Nivesh Adhiniyam, 1973 (for short, "the 1973 Act") was challenged, the appellant also filed writ petition under Article 226 of the Constitution of India in the name of public interest litigation and made the following prayers:

"(a) declare Section 14, 15, 17A, 18 and 23A of the Madhya Pradesh Nagar Tatha Gram Nivesh Adhiniyam, 1973 duly amended from time to time being against the provisions of the Constitution of India and, therefore, is liable to be struck

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down;

(b) direct the Respondents to implement the directions for use of land in the Master Plan of the Indore as well as the other cities of Madhya Pradesh and other schemes for use of land directly, as provided in the Indore Master Plan and other cities and any change in the land use should be cancelled and the same should be allowed to be sued as provided in the Master Plan and other city development schemes;

(c) restrain the Respondent from finalizing the Master Plan/Development Scheme of the Indore City till the disposal of the present Writ Petition."

By an order dated 23.3.2007, the High Court

dismissed the writ petition filed by Center for Environment Protection Research and Development and upheld the constitutionality of the provisions, which were challenged in that petition. Notwithstanding this, the appellant insisted for separate hearing of his case by stating that he wants to urge additional grounds. The High Court considered the additional grounds and negated his challenge to the validity of Sections 14, 15, 17A, 18 and 23A of the 1973 Act.

We have heard learned counsel for the parties. At the threshold, we asked Shri Vivek Dalal, learned counsel for the appellant to show as to how his client was entitled

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to file writ petition in the name of public interest litigation for striking down some provisions of the 1973 Act and to restrain the respondent from finalising the Master Plan/Development Plan for the city of Indore. In reply, Shri Dalal submitted that the appellant had invoked jurisdiction of the High Court in public interest because he is a social worker. However, he could not give the particulars of the work done by the appellant. That apart, we find that in the writ petition filed by him, the appellant had not even averred that he was a social worker. Therefore, we are constrained to observe the writ petition filed by the appellant in the name of public interest litigation questioning the constitutional validity of various sections of the 1973 Act was totally misconceived and the High Court committed an error by entertaining the same ignoring the judgment of this Court in Guruvayoor Devaswom Managing Committee and another versus C.K. Rajan and others (2003) 7 SCC 546.

It is also apposite to mention that the appellant did not raise any objection to the Master Plan for Indore notified on 21.3.1975 and the draft Indore Development Plan 2021, which was notified on 7.7.2006.

Therefore, he does

not have the locus to question the Master Plan/Indore Development Plan and the same cannot be annulled at his

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instance, more so because Indore Development Plan was finally notified after the decision of the writ petition and legality thereof has not been questioned before this Court.

We also do not find any merit in the appellant's challenge to the constitutionality of Sections 14, 15, 17A, 18 and 23A of the 1973 Act and approve the detailed reasons recorded by the High Court while dismissing the writ petition filed by him as also Writ Petition No.13753 of 2006.

The appeal is accordingly dismissed. For filing frivolous writ petition and appeal, the appellant is saddled with cost of Rs.1,00,000/-. He shall deposit Rs.50,000/- with the Supreme Court Legal Services Committee within three months from today. The remaining amount shall be deposited with the Madhya Pradesh State Legal Services Authority within the same period.

.....J.
(G.S. SINGHVI)

.....J.
(ASOK KUMAR GANGULY)

NEW DELHI,
FEBRUARY 15, 2011.

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ITEM NO.102 COURT NO.10 SECTION IV/IVA

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

CIVIL APPEAL NO(s). 2163 OF 2009

MADAN PARMALIYA Appellant (s)

VERSUS

STATE OF M.P. & ORS. Respondent(s)

WITH

SLP(C) NO. 23730 of 2010

(With appln.(s) for permission to file addl. documents and exemption from filing O.T. and impleadment as party respondent and with prayer

for interim relief and office report)
SLP(C) NO. 28542 of 2010
(With appln.(s) for impleadment and with prayer for interim relief
and office report)
SLP(C) NO. 30516 of 2010
(With prayer for interim relief and office report)
SLP(C) NO. 34252 of 2010
(With prayer for interim relief and office report)
SLP(C) NO. 34697 of 2010
(With prayer for interim relief and office report)
SLP(C) NO. 36008 of 2010
(With appln.(s) for permission to file addl. documents and office
report)
SLP(C) NO. 36009 of 2010
(With office report)
SLP(C) NO. 35410 of 2010
(With prayer for interim relief and office report)
SLP(C) NO. 31154 of 2010
(With prayer for interim relief and office report)

Date: 15/02/2011 This Appeal/Petitions were called on for hearing
today.

CORAM :

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

For Appellant(s) Mr. Vivek Dalal, Adv.
Mr. A.P. Dhamija, Adv.
Mr. Sudhir Malhotra, Adv.
[for appellant in C.A. No.2163/2009]

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Mr.Gaurav Agrawal, Adv.
[for petitioner in SLP(C)No.23730/2010]

Dr. A.M. Singhvi, Sr. Adv.
Mr. Mahesh Agrawal, Adv.
Mr. Bharat Zaveri, Adv.
Mr. Gaurav Goel, Adv.
[for petitioner in SLP(C)Nos.34252 & 36009/2010]

Mr. Shekhar Naphade, Sr.Adv.
Mr. Mahesh Agrawal, Adv.
Mr. Bharat Zaveri, Adv.
Mr. Gaurav Goel, Adv.
[for petitioner in SLP(C)Nos.36008 & 34697/2010]

For State of M.P. Mr. Uday U. Lalit, Sr.Adv.
Mr. B.S. Banthia, Adv.
Ms. Vibha Datta Makhija
Mr. Vikas Upadhyay, Adv.

For M.P. Housing Board Mr. Ravindra Shrivastava, SR.Adv.
Mr. B.S. Banthia, Adv.
Mr. Vikas Upadhyay, Adv.
Mr. Anup Jain, Adv.

For Respondent(s) Mr. Kunal Verma, Adv.

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

CIVIL APPEAL NO. 2163 OF 2009:

The appeal is dismissed in terms of the
signed order. For filing frivolous writ petition and
appeal, the appellant is saddled with cost of

Rs.1,00,000/- . He shall deposit Rs.50,000/- with the
Supreme Court Legal Services Committee within three
months from today. The remaining amount shall be
deposited with the Madhya Pradesh State Legal Services
Authority within the same period.

SLP(C) NOs. 23730 and 31154 of 2010 etc.:

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After the arguments were heard for some time,
Shri U.U. Lalit, learned senior counsel appearing
for the State of Madhya Pradesh, made a request for
short adjournment to enable his instructing counsel to
get the relevant records including the documents which
were made available for inspection to the public at
large in the context of notifications issued under
section 23A(2) of the Madhya Pradesh Nagar Tatha Gram
Nivesh Adhiniyam, 1973 (for short, "the Act").

Adjourned to 23.2.2011.

Learned instructing counsel should also get in
touch with the concerned authorities and make an
endeavour to secure the Gazette notification, in which
section 23A of the Act as introduced was first time
published and its amendment in 2005 was published along
with the Statement of Objects and Reasons.

(A.D. Sharma)
Court Master

(Phoolan Wati Arora)
Court Master

(Signed Order is placed on the file)