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OUT TODAY

ITEM NO.13

COURT NO.2

SECTION XIIA

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).10199/2006

(From the judgement and order dated 06/06/2006 in WPMP No. 13792/2006

in WP No. 11084/2006 of The HIGH COURT OF A.P AT HYDERABAD)

M/S.CHIMANLAL SILK MILLS PVT.LTD.

Petitioner(s)

VERSUS

A.P. POLLUTION CONTROL BOARD & ORS.

Respondent(s)

(With appln(s) for exemption from filing c/c of the impugned Judgment  
and prayer for interim relief ) )

WITH SLP(C) NO. 10201 of 2006

( With appln(s) for exemption from filing c/c of the impugned Judgment  
and prayer for interim relief and office report)

SLP(C) NO. 10202 of 2006

( With appln(s) for exemption from filing c/c of the impugned Judgment  
and prayer for interim relief and office report)

Date: 21/06/2006 These Petitions were called on for hearing today.

CORAM :

HON'BLE Dr. JUSTICE AR. LAKSHMANAN

HON'BLE MR. JUSTICE ALTAMAS KABIR

(VACATION BENCH)

For Petitioner(s)

Mr. Aman Lekhi, Sr. Adv.

Mr. Chandarsen Reddy, Adv.

Mr. Rajan K. Chourasia, Adv.

Mr. Jaspreet S. Rai, Adv.

Mr. Rohit Nagpal, Adv.

Mr. B.S. Rajesh Agrajit, Adv.

Mr. Varinder Kumar Sharma, Adv.

For Respondent(s)

UPON hearing counsel the Court made the following

O R D E R

Heard Mr. Aman Lekhi, learned Senior Counsel for the petitioners.

These special leave petitions were filed against the order dated 6.6.2006

passed by the High Court of Andhra Pradesh in WPMP no.13792/2006 in WP no.11084/2006, WPMP no.13769/2006 in WP no.11065/2006 and in WPMP no.13785/2006 in WP no.11081/2006 staying the operation of the order dated 16.5.2006 passed by the Appellate Authority under Water (Prevention and Control of Pollution) Act, 1974 and Air (Prevention and Control of Pollution) Act, 1981.

The Appellate Authority in the concluding portion of its order dated 16.5.2006 has observed as under:

"For all the aforesaid reasons, we do not find any merit in the

Appeals. Howsoever, having regard to the fact that these industries

have been in operation for a number of years and the Hon'ble

Supreme Court also has directed that these industries should be

relocated in a phased manner and the State Government also has

constituted a task force in this behalf, we feel that the Appellants

should be allowed reasonable breathing time so as to enable them to dispose of the stocks on hand and to make arrangements for shifting their industries elsewhere. Accordingly, we suspend the operation of the impugned closure orders for a period of three months from today subject to the condition that the Appellants shall not discharge any effluents or dump any hazardous wastes outside their premises and they shall also effectively operate the pollution control equipments set up by them in their respective units as directed by the A.P. Pollution Control Board. With this modification, the Appeals are dismissed."

Aggrieved by the said direction, the A.P. Pollution Control Board preferred writ petitions before the High Court. Pending writ petitions, the

Pollution Control Board also filed Writ Miscellaneous Petition praying to stay the operation of the order dated 16.5.2006 passed in Appeal Nos.13-14 of 2006 pending writ petitions on the file of the High Court. On 6.6.2006, the Division Bench of the High Court have passed the ex-parte interim order, which reads thus:

"Notice of stay to Respondents nos.1 to 3 for 22.6.2006.

In the meanwhile, operation of the order dated 16.5.2006 passed by the appellate authority constituted under the Water (Prevention and Control of Pollution) Act, 1974 and Air (Prevention and Control of Pollution) Act, 1981 insofar as it suspends the operation of closure order shall remain stayed. This would

necessarily mean that Respondent no.1 shall not be entitled to undertake any activity whatsoever in the premises of its factory or unit.

Personal service is permitted.

ents It shall be the petitioner's duty to serve the respondents before the next date, failing which this interim order shall stand vacated."

Aggrieved against the said order, the above three special leave petitions have been filed in this Court.

We have heard Mr. Aman Lekhi, learned Senior Counsel appearing for the petitioners in extenso. According to him, the High Court cannot interfere with the order passed by the Appellate Authority ex-parte without hearing the contesting respondents and without their being an error of jurisdiction in the order passed by the said Authority. We have perused the above order. The said order is only an ex-parte interim order. The personal services were also permitted by the Court. The notice was ordered to the respondents therein returnable by 22.6.2006. Since it is only against the interim order impugned in the special leave petitions, we are not inclined to interfere with the said interim order. However, since the closure order has now been passed which would not only affect the industries but also the labour forces, we request the High Court to take up the writ miscellaneous

petitions (stay petitions) on 22.6.2006 itself or at any rate within 10 days thereafter.

We make it clear that we are not expressing any opinion on merits of the rival

claims. We are only requesting the High Court to dispose of the writ miscellaneous

petitions on 22.6.2006 or within 10 days thereafter. The petitioner is at liberty to

raise all the grounds before the High Court, which have been raised in these special

leave petitions including the order of this Court in IA no.16 dated 18.7.2005 in WP

no.63/1995.

The special leave petitions are accordingly disposed of.

Office is directed to issue copy of the order today itself.

( A.D. Sharma )

Court Master

( Phoolan Wati Arora )

Court Master