

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

C I V I L A P P E A L N O ( s ) . 1 9 O F 2 0 0 1

D I S T R I C T E X C I S E O F F I C E R & O R S .

A p p e l l a n t ( s )

V E R S U S

M / S . K A L A W A T I H A R I S I N G H C H O U D H A R Y & P A R T Y  
e n t ( s )

R e s p o n d e n t ( s )

(With appln(s) for exemption from filing O.T., permission to place addl. documents on record and office report)

Date: 1 6 / 0 8 / 2 0 0 7 This Appeal was called on for hearing today.

C O R A M :

H O N ' B L E M R . J U S T I C E H . K . S E M A  
H O N ' B L E M R . J U S T I C E L O K E S H W A R S I N G H P A N T A

F o r A p p e l l a n t ( s )

Mr. Aruneshwa r Gupta, AA G.  
Mr. Naveen Ku m a r Singh, Adv.  
Mr. Mukul Sood, Adv.  
Mr. Shashwat Gupta, Adv.  
Ms. Adarsh Sabha rw al, Adv.

F o r R e s p o n d e n t ( s )

U P O N h e a r i n g c o u n s e l t h e C o u r t m a d e t h e f o l l o w i n g  
O R D E R

The orders of both the trial court and the High Court are not sustain able in law and they are accordingly quashed.  
S u i t N o . 1 1 7 / 1 9 9 9 f i l e d b y t h e r e s p o n d e n t t h e r e f o r e ,

The Civil is no

m a i n t a i n a b l e a n d t h e s a m e s t a n d s d i s m i s s e d a c c o r d i n g l y .

The appeal is allowed in terms of the signed order. No order as to costs.

( P A W A N K U M A R )  
C O U R T M A S T E R

( A N A N D S I N G H )  
C O U R T M A S T E R

(signed order is placed on the file)  
I N T H E S U P R E M E C O U R T O F I N D I A

C I V I L A P P E L L A T E J U R I S D I C T I O N

C I V I L A P P E A L N O . 1 9 O F 2 0 0 1

D I S T R I C T E X C I S E O F F I C E R & O R S .

... A P P E L L A N T S

V E R S U S

M / S . K A L A W A T I H A R I S I N G H C H O U D H A R Y & P A R T Y  
R E S P O N D E N T

...

O R D E R

Despite receipt of notice, none appears on behalf of the respondent.

The controversy involved in this appeal is with regard to the grant of liquor licence for retail sale of country liquor, foreign Wine and Beer. The licence was granted in favour of the respondent on 05.11.1999 for the period 1999 - 2001. A notice dated 22.10.1999 was issued to the respondent to shift liquor shop Gahrauli which is located in the periphery of 2-5 kms. of the shops allotted to other 9 groups in Dausa, which is in violation of office circulars of the Commissioner. As would appear from the record the respondent did not file any reply to the show cause notice.

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He, however, filed Civil Suit No.117 / 1999 before the trial court praying, inter alia, for granting injunction restraining the respondent from taking action on the said notice. In the trial court, the appellant filed written statement. It is specifically averred in the written statement that the civil suit is barred under Section 9 B of the Rajasthan Excise Act, 1950. Amended Section 9 B reads :

"9 B . Bar of jurisdiction of Civil Courts. - No civil court shall have jurisdiction to entertain any suit or other proceeding to set aside or modify -

a) any original order passed by an officer competent to do so under the provisions of this Act, or

b) any order passed under, or referred to in, Section 9- A."

This averment was not considered by the trial court as, according to the trial court, Section 9 B has not been produced before it. We are at loss as to why the trial court has come to the conclusion as Section 9 B has itself been quoted in the written statement. We have gone through the contexts of the written statement, and reply to the injunction application of the appellant annexed in this appeal. On going through the written objections particularly

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paragraph 14 of the said objections, entire Section 9 B has been quoted. In view of the matter, the trial court has committed a grave miscarriage of justice and jurisdictional error. On appeal being filed by the appellant before the High Court, the High Court has also committed the same mistake and failed to appreciate the import of Section 9 B of the Act whereunder the jurisdiction of the civil court is

barred. (See : Church of North India vs. Lavajibh ai Ratanjibh ai and others, 2 0 0 5 (10) SCC 7 6 0)

A perusal of Section 9 B, as amended, shows that there would be clear bar on the civil court jurisdiction. In view thereof, the orders of both the trial court and the High Court are not sustain able in law and they are accordingly quashed. The Civil Suit No.1 1 7 / 1 9 9 9 filed by the respondent therefore, is not maintain able and the same stands dismissed accordingly.

The appeal is allowed. No order as to costs.

(H.K. S E M A) ..... J.

..... J.  
(L O K E S H W A R S I N G H P A N T A)

N E W D E L H I ,  
AUGUS T 1 6 , 2 0 0 7 .