

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). 2541 OF 2006

CANTONMENT BOARD & ANR.

Appellant (s)

VERSUS

GAJRAJ SINGH & ORS.

Respondent(s)

(With appln(s) for vacating interim order and impleadment and office report)

Date: 19/01/2011 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE D.K. JAIN
HON'BLE MR. JUSTICE H.L. DATTU

For Appellant(s) Mr.Vikas Singh, Sr. Adv.
Ms. Rekha Pandey,Adv.

For Respondent(s)
rr 1 & 2 Mrs Rani Chhabra,Adv.
Ms. Vibha Narang, Adv.

r-3 Ms. Madhurima Tatia, Adv.
Ms. Anil Katiyar, Adv.
Mr. D.S. Mahra ,Adv

Impleadment Mr. Dinesh Kumar Garg ,Adv (N/P)

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

Application for vacating interim stay is
dismissed.

The Civil Appeal is referred to a larger
Bench in terms of the signed order.

(VINOD LAKHINA)
Court Master

(KUSUM GULATI)
Court Master

(ONE SIGNED ORDER IS PLACED ON THE FILE)
IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.2541 OF 2006

CANTONMENT BOARD & ANR.

...APPELLANTS

VERSUS

GAJRAJ SINGH & ORS.

...RESPONDENTS

ORDER

Application for vacating interim stay is

dismissed.

At the outset, Mr. Vikas Singh, learned Senior Counsel appearing for the appellant - Cantonment Board, has submitted that the view taken by this Court in Ramgarh Cantonment Board & Anr. Vs. State of Jharkhand & Ors. [2008) 11 SCC 223] on the interpretation of Section 60 of the Cantonments Act, 1924 (for short "the Act") needs reconsideration. According to the learned counsel, the dictum laid by the Division Bench in the said judgment, viz.: (1) that the power to levy any tax under sub-section (1) of Section 60 of the Act is dependent upon and coextensive with any such corresponding power which may vest in the municipality in the State; and (2) that sub-section (1) of Section 60 of the Act is not totally an independent provision by itself, in the sense that the power by itself has not been given to the Board to levy tax and the provision is related to and dependent upon any corresponding analogous

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provision in a legislative enactment of the municipality, does not flow from the language of the said Section. Learned counsel submits that from a bare reading of sub-section (1) of Section 60 of the Act, it is plain that the Board has the power to impose in any cantonment any tax which, under any enactment for the time being in force, may be imposed in any municipality in the State. To put it differently, the submission is that the imposition of a tax under some enactment by a municipality is not a prerequisite for imposition of such or any other tax by the Board in an area under its control and management. Learned counsel would also urge

that in Ramgarh (supra), question of relevancy of the Indian Tolls Act, 1851, which empowers the State Government to levy tolls on roads and bridges at such rate as the State Government may deem fit, was neither raised nor considered.

Per contra, Ms. Rani Chhabra, learned counsel appearing for the respondents contends that the interpretation of Section 60 of the Act placed by this Court in Ramgarh (supra) gets support from another decision of this Court in Cantonment Board, Mhow & Anr. vs. M.P. State Road Transport Corpn. [(1997) 9 SCC 450] and, therefore, in light of two ...3/-

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authoritative pronouncements, the issue raised in the present appeal is no more res integra and, therefore, it deserves to be dismissed.

Having given our anxious consideration to the rival submissions, we feel that there is some merit in the stand of learned counsel for the appellants and, therefore, the matter deserves to be heard by a larger Bench.

We order accordingly and direct the office to obtain orders from Hon'ble the Chief Justice of India for placing the matter before a larger Bench.

....., J.
(D.K. JAIN)

....., J.
(H.L. DATTU)