

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

IA 20 in Petition(s) for Special Leave to Appeal (Civil)
No(s).29031/2009

(From the judgement and order dated 06/10/2005 in
3246/2004 of The HIGH COURT OF JUDICATURE AT BOMBAY)

WP No.

KRISHNADEVI MALCHAND KAMATHIA & ORS.

Petitioner(s)

VERSUS

BOMBAY ENVIORNMENTAL ACTION GROUP.& ORS.

Respondent(s)

(With appln(s) for clarification of court's order dated
22.3.2010 and office report)

Date: 07/05/2010 This Petition was called on for hearing
today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE DEEPAK VERMA
HON'BLE DR. JUSTICE B.S. CHAUHAN

For Petitioner(s) Mr. S.B. Sanyal, Sr. Adv.
Mr. Dinesh Dwivedi, Sr. Adv.
Mr. L.N. Rao, Sr. Adv.
Mr. Pramod Swarup, Sr. Adv.
Ms. Pareena Swarup, Adv.
Mr. Makrand D. Adkar, Adv.
Mr. Vijay Kumar, Adv.
Mr. Vishwajit Singh, Adv.

For Respondent(s) Mr. Dushyant Dave, Sr. Adv.
Ms. Indu Malhotra, Sr. Adv.
Mr. Satyajit A. Desai, Adv.
Ms. Madhvi Divan, Adv.
Ms. Anagha S.Desai, Adv.

Ms. Sunaina Dutta, Adv.
Mrs. Suchitra Atul Chitale, Adv.

Mr. Sanjay Kharde, Adv.
Ms. Asha G. Nair, Adv.

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

Delay condoned.

Leave granted.

Heard both sides.

Record perused.

The appeal as well as the Interlocutory Application

are disposed of in terms of the signed order.

(R.K. Dhawan)
AR-cum-PS

(Veera Verma)
Asstt. Registrar

(Signed order is placed on the file)
IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.4421 OF 2010
(Arising out of SLP(C) No.29031 of 2009)

KRISHNADEVI MALCHAND KAMATHIA & ORS.
VERSUS

..APPELLANTS.

BOMBAY ENVIORNMENTAL ACTION GROUP.& ORS.

..RESPONDNETS

WITH
I.A.NO.20 IN SLP(C) NO.29031/2009

O R D E R

Delay condoned.

Leave granted.

Heard both sides.

Record perused.

Petitioners herein are challenging the interim order dated 06.10.2005 passed by Division Bench of the High Court of Judicature at Bombay in Writ Petition No. 1470 of 2003 titled Usha Madhu Development Cooperative Housing Society Ltd. and Another Vs. Union of India & Others. Admittedly, the present petitioners were not parties to the aforesaid Writ Petition and yet the impugned order by Division Bench came to be passed. The main relief claimed in the petition is with regard to protection and preservation of the fast depleting mangrove forests along the coastal area of the State of Maharashtra. It is averred in the petition that 720 Kms. long coastline of Maharashtra is indented by numerous rivers, estuaries, creeks, small bays, rocky shores and muddy beaches. However, the main concern of the petitioners, as

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mentioned above, is with regard to destruction of mangroves in various ways.

Thus, sweeping directions were given by the Division

Bench to safeguard the mangroves from being completely destroyed.

Feeling aggrieved by the said order passed by Division Bench, the petitioners approached this Court, mainly on the ground that they were not heard yet the impugned order came to be passed.

Pursuant to the direction, the Divisional Commissioner, Konkan division issued public notice and thereafter notified extensive areas stating that they are coming under the forest area. It is contended by the petitioners that they were not heard or allowed to be represented in these proceedings. As mentioned herein above, in the High Court, the present petitioners were not parties thus, obviously they could not have been heard before the impugned order was passed. In the impugned order, there is a direction that in areas covered by mangroves, owners of that area shall not conduct any industrial business activities.

In the above circumstances, as the petitioners were not heard by the High Court before the impugned interim order was passed, they shall be permitted to intervene as respondents in the proceedings pending before the High Court and would also be entitled to challenge the Notification

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dated 18.02.2009 passed by the Divisional Commissioner, Konkan Division in appropriate proceedings.

All contentions to be raised by both parties are left open to be considered by the High Court.

By an interim order passed by this Court on 22.3.2010, permitted the petitioners to repair the Bund. This interim order is made absolute and petitioners are permitted to maintain and upkeep the Bund till final adjudication regarding Notifications dated 18.2.2009 and 15.6.2009 is made and violation of these orders by parties or other authorities could be brought to the notice

of this Court for appropriate directions.

With the above directions, the appeal as well as the Interlocutory Application are disposed of.

.....CJI
(K.G. BALAKRISHNAN)

.....J
(DEEPAK VERMA)

.....J
(Dr. B.S. CHAUHAN)

NEW DELHI;
MAY 7, 2010.