

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

I.A. NOS.4, 7 & 8 OF 2012 IN CIVIL APPEAL NO.8814 OF 2011

SECURITY ASSOCIATION & ORS. Appellant (s)

VERSUS

UNION OF INDIA & ORS. Respondent(s)

(With appln(s) for exemption from filing O.T. and vacating stay and c/delay and set aside the order dt. and intervention/impleadment and permission to file additional documents and exemption from filing typed copies and permission to bring additional documents and prayer for interim relief and office report)

Date: 01/03/2013 This Appeal was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE ANIL R. DAVE
HON'BLE MR. JUSTICE VIKRAMAJIT SEN

For Appellant(s) Mr. J.P. Cama, Sr. Adv.
Mr. C.U. Singh, Sr. Adv.
Mr. R.B. Suvarna, Adv.
Mr. Sumit Goel, Adv.
Mr. Kumar Shashank, Adv.
for M/s. Parekh & Co.

Mr. Devvrat, AOR

For Respondent(s) Dr. Rajeev Dhavan, Sr. Adv.
No.6 Mr. Deepa Murty, Adv.
Mr. Dilip Annasaheb Taur, Adv.
Mr. Jayesh Kanaksinh Ashar, AOR

For Applicant Mr. T.R. Andhyarujina, Sr. Adv.
in IA 4 & 8 Mr. Vimal Chandra S. Dave, Adv.
Mr. Shoumik Ghosal, Adv.
Ms. Neelam Kalsi, Adv.

For Applicant in Mr. Prashant Chaudhary, Adv.
I.A.7 Mr. Manoj K. Mishra, AOR
Mr. Deepak Mishra, Adv.
Mr. Shailesh Mishra, Adv.

For R-9 Mr. Manoj K. Mishra, Adv.
Mr. Shailesh Mishra, Adv.
Mr. Deepak Mishra, Adv.

For R-7 Mr. Vikas Mehta, AOR

Mr. Uday B.Dube, AOR

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

I.A. Nos.4 and 8 of 2012, have been filed by the State of Maharashtra and the Security Guards Board for Greater Mumbai and Thane, inter alia, for modification of the orders passed on 26th October, 2009, and 6th August, 2010. By the first order, this Court had restrained the respondents, who have filed these interlocutory applications, from taking any coercive action against the petitioners for not being registered under the Maharashtra Private Security Guards (Regulation of Employment and Welfare) Act, 1981. In the subsequent order of 6th August, 2010, it was recorded that the respondent Nos.3 and 4, namely, the Inspector, Security Guards Board and the Chairman of the Security Guards, would not insist upon the Security Agencies, as well as the principal employers, to seek registration under the aforesaid Act.

A prayer was also made that the petitioners should be directed to comply with the terms and conditions imposed on them in the Exemption Notification. Such prayer was obviously made on behalf of the State and the Security Guards Board, in terms of the Exemption Notification, issued under Section 23 of the said Act.

In reaction to the above, learned counsel appearing for the petitioners stated, on instructions, that all the Security Agencies which had been granted exemption, have already complied with and will also comply with all the terms and conditions.

In these two applications, the prayers are more or less identical and the prayers include a direction to set aside the interim order which had been passed on 26th October, 2009, and the order of 14th October, 2011, along with the order of 29th October, 2010, passed in Contempt Petition (C) No.68 of 2010. A further prayer was made to relieve the respondent No.6, State of Maharashtra, from the statement made by counsel and recorded in the order of 6th August, 2010, passed in the contempt petition.

Having heard Dr. Rajeev Dhawan, Mr. T.R. Andhyarujina, Mr. J.P. Cama, learned senior counsel, and Mr. Ramesh K. Mishra, learned counsel, appearing for the parties and including the Trade Union, we are of the view that as far as the second relief is concerned, the same cannot be granted and the same is, accordingly, rejected.

As far as modification of the interim orders are concerned, we make it clear that the respondent Nos.3 and 4 in the contempt petition, shall not insist upon the Security Agencies, as well as the principal employer, to seek registration under the Act of 1981, but, at the same time, we also direct the Security Agencies, which have been granted exemption under Section 23 of the Act, to strictly comply with the terms and conditions of the Exemption Notification.

In the event the Security Agencies fail to comply with such terms and conditions, the restraint order passed on 26th October, 2009, shall be lifted to the extent that the said respondents would be entitled to issue show cause notice to the defaulting parties.

In our view, the main matter should be decided at an early date, since the question of registration is at the root of the problems that are being faced by the parties. Accordingly, let Civil Appeal No.8814 of 2011, which is the lead matter, be taken up along with all the other connected batch matters for final disposal on 16th April, 2013, subject to over-night part heard

matters.

I.A. Nos.4 and 8 of 2012, are disposed of accordingly.

I.A. No.7, which has been filed for impleadment, be taken up with the other applications, along with the main matter.

|(Chetan Kumar)
|Court Master

| |(S.S.R. Krishna)
| |Court Master

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