

SUPREME COURT OF INDIA  
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).6229/2007  
(From the judgement and order dated 13/10/2006 in WP No. 99/1999 & WP No. 422/1998 of  
The HIGH COURT OF JUDICATURE OF BOMBAY AT PANAJI)

COMPETENT AUTOMOBILES COMPANY LIMITED

Petitioner(s)

VERSUS

GOA FOUNDATION, REP. BY SEC. & ORS.

Respondent(s)

(With appln(s) for placing on record addl.facts and directions and prayer for interim relief and office report )

WITH SLP(C) NO. 5400 of 2007

(With appln.(s) for permission to place addl.documents on record and with prayer for interim relief and office report)

Date: 07/04/2008 These Petitions were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE  
HON'BLE MR. JUSTICE R.V. RAVEENDRAN

For Petitioner(s) Mr.Mukul Rohtagi, Sr.Adv.  
Mr.Dhruv Mehta, Adv.  
Mr.Harshvardhan Jha, Adv.  
Mr.Yashraj Singh Deora, Adv.  
Mr.Gulshan Sharma, Adv.  
For M/S K.L. Mehta & Co.,Adv.

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For Respondent(s) Mr.Sanjay Parikh, Adv.  
NO.1 Mr.A.N.Singh, Adv.  
Mr.Jitin Sahni, Adv.  
Ms.Mamta Saxena, Adv.  
Ms. Anitha Shenoy, Adv.

For Respondent nos.3&5 Mr.Bhavanishankar V.Gadnis, Adv.  
For Mrs.B.Sunita Rao ,Adv

UPON hearing counsel the Court made the following  
ORDER

1. The petitioner claims to be the owner of about 21 acres of land by the side of the sea in village Arossim in South Goa. It is stated that the land falls within the CRZ-III (ii). The petitioner proposes to construct a luxury hotel cum resort in the said land.

2. A public interest litigation had been filed by first respondent in the High Court of Judicature of Bombay, Bench at Goa, regarding the unauthorised constructions in the CRZ III. A Division Bench of the High Court allowed the said petition by judgment dated 13 October, 2006, and issued several directions, including the following (in paragraph 32 of the judgment) :

"....(D) To identify the open plots in CRZ III zone which are  
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available for construction of hotels and to frame appropriate policy/regulation for utilisation thereof before they are being allowed to be utilised for such construction activities.

(E) Till and until the survey and inquiry is completed, as directed above, no new license for any type of construction in CRZ-III zone shall be issued or granted, and no new structure of whatsoever nature shall be allowed to be constructed in CRZ-III zone, except repairs and renovation of existing houses which shall be subject to the appropriate order on completion and result of the survey and inquiry to be held as directed above and this should be specifically stated in the licenses to be granted for the purpose of repairs and/or renovation of the existing houses....."

3. The petitioner was not a party to the said PIL. The said judgment was passed when the petitioner was in the process of applying for environmental clearance from the Ministry of Environment and Forests, for the hotel project. As the said directions amounted to a blanket ban preventing the authorities from considering any application by the petitioner, the petitioner has approached this Court by seeking permission to file this special leave petition. Such permission was granted.

4. By order dated 19.11.2007, this Court directed the Goa Coastal Zone

Management Authority to submit a report about the environmental impact if the petitioner's plot is used for a hotel project. The Goa Coastal Zone Management Authority has accordingly examined the feasibility of the proposal for construction of a hotel in the said plot and has submitted a report dated 3.3.2008 (filed as an annexure to affidavit dated 13.3.2008). According to the petitioner, the said report is favourable for having a hotel project in its site.

5. Learned counsel appearing for the first respondent however, submitted that if the hotel project is cleared, large number of trees are likely to be cut and the sand dunes in the land will be flattened thereby adversely affecting coastal eco-system, apart from causing pollution. These are, in our opinion, issues which will have to be considered by the MoEF and other appropriate authorities who have to process the applications if and when filed by the petitioner (or already filed) while examining whether clearance has to be given for the project. The concerned authorities have also to examine whether the construction of the hotel is permissible in accordance with law. The first respondent would be at liberty to raise any objection to the proposed project before the MoEF or other appropriate authorities.

6. If all formalities are completed and in the event of the petitioner securing all clearances required for securing a licence for construction, the High Court may, on an application by the petitioner in the said proceeding for exemption/exclusion from the operation of the ban in para 32(E) of its judgment, pass appropriate orders.

7. With the above observations, the special leave petitions are disposed of.

(G.V.Ramana)  
Court Master

(Veera Verma)  
Court Master