

Bayer (India) Limited and Others

Vs

State of Maharashtra and Others

Civil Appeal No. 578 of 1991

(M. H. Kania, Kuldeep Singh JJ)

06.02.1991

JUDGMENT

KANIA, J. –

1. This special leave petition is directed against the judgment of a Division Bench of the Bombay High Court in Writ Petition No. 4497 of 1990. The High Court allowed the said writ petition and struck down a communication from the Bombay Municipal Corporation, respondent 2 herein, informing the petitioners in the said writ petition, who are arrayed as respondents 3 to 18 before us, that their application for permission to develop the property, namely, the land in question situated at Village Balkum near Thane, was rejected in view of the representations submitted to the government by the owner of chemical factories situated in the said village, who are the appellants/petitioners herein that no building construction permission should be granted within a certain distance from the said factories. The petitioners in the special leave petition are some of the said chemical factories. They were not joined in the writ petition as respondents and have prayed for leave to file the special leave petition on the ground that the judgment adversely affects them and they are aggrieved by the same.

2. Permission is granted. Leave is granted. Counsel heard.

3. We find that appellants can be said to be parties grieved by the impugned judgment, even if they are not regarded as necessary parties in the writ petition. In the facts and circumstances of the case, we find that there is no need to set aside the impugned judgment of the Bombay High Court at the instance of the appellants. The appellants are, however, given liberty to file a review petition before the Bombay High Court for reviewing the impugned judgment, within a period of four weeks from today. In our opinion it is proper that the entire controversy to which the judgment relates should as determined in the light of the submissions which may be made by the appellants.

4. In these circumstances, we direct that the review petition, if filed, shall be entertained by the Bombay High Court and the appellants will be given a hearing as if the matter were heard afresh as far as they are concerned. It is clarified that the hearing of the review application will not be confined to the normal grounds on which a review can be sought but the entire controversy will be regarded as open as between the appellants herein and the respondents.

5. The interim order made by this Court on January 8, 1991 will continue to remain in operation till the review petition is decided by the High Court. However, it will be open for the High Court to vary or vacate the interim order on appropriate applications made to it by any of the parties or by any of the interveners here. If the review petition is not filed within the said period of four weeks,

the appeal shall stand dismissed and all interim orders passed by us shall be deemed to be vacated.

6. In our opinion, the review petition deserves to be disposed of with expedition and we would, therefore, request the High Court to dispose of the review petition, if filed as aforesaid, within four months from today and in any event, by September 30, 1991.

7. The matter shall now be placed before learned Chief Justice of the Bombay High Court for passing appropriate directions.

8. The appeal is disposal of as aforesaid with no order as to costs.

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