

PETITIONER:
BAYER (INDIA) LTD. AND ORS.

Vs.

RESPONDENT:
STATE OF MAHARASHTRA AND ORS.

DATE OF JUDGMENT 06/02/1991

BENCH:
KANIA, M.H.
BENCH:
KANIA, M.H.
MISRA, RANGNATH (CJ)
KULDIP SINGH (J)

CITATION:
1991 SCR (1) 250 1991 SCC (1) 647
JT 1991 (1) 429 1991 SCALE (1) 161

ACT:

Constitution of India, 1950-Article 136-Special Leave Petition by appellants, aggrieved by High Court judgment, not a party in writ petition-Liberty given to file review in High Court.

Civil Procedure Code, 1908-Order XLVII-Review-Party affected by High Court-Judgment though not party in the writ petition-Whether can file Review Petition in High Court.

HEADNOTE:

A writ petition was filed in the High Court challenging the communication of Respondent No. 2-Corporation, directing that no development be made in the disputed land, and no building construction permitted within a certain distance from the chemical factories in view of the representations of the owners of the factories.

The High Court allowed the writ petition and struck down the aforesaid communication.

Being aggrieved and adversely affected by the judgment, some of the owners of the chemical factories, even though they were not parties in the writ petition, filed a special leave petition.

Disposing of the Appeal, this Court,

HELD: (1) Appellants can be said to be parties aggrieved by the judgment, even if they are not regarded as necessary parties in the writ petition. [251G-252A]

(2) In the facts and circumstances of the case, there is no need to set aside the judgment of the High Court at the instance of the appellants. They are, given liberty to file a review petition before the High Court. The review petition, if filed, shall be entertained by the High Court and the appellants given a hearing as if the matters were heard afresh as far as they are concerned. It is clarified that the review application will not be confined to the normal grounds on which a review can be sought but

251

the entire controversy will be regarded as open as between the appellants and the respondents. [252A-D]

JUDGMENT:

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 578 of 1991.

From the Judgment and Order dated 8.11.1990 of the Bombay High Court in W. P. No. 4497 of 1991.

Ashok Desai, N. Serwai, Dilip Udeshi, P.H. Parekh and J.P. Pathak for the Appellants.

U.R. Lalit, K.K. Singhvi and Soli J. Sorabjee, A.M. Khanwilkar, Ravinder Narain, S. Ganesh, D.N. Misra and S. Kachwaha, S.K. Dholakia and A.S. Bhasme for the Respondents.

K.K. Venugopal, E.C. Agrawala, Ashwini Kumar, Ms. Purnima Sethi and A.V. Pilli for the Applicant.

The Judgment of the Court was delivered by

KANIA, J. 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 no. 2 herein, informing the petitioners in the said writ petition, who are arrayed as respondents nos. 3 to 13 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 owners 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.

Permission is granted. Leave is granted. Counsel heard.

We find that appellants can be said to be parties aggrieved by the impugned judgment, even if they are not regarded as necessary parties

252

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. 9 In our opinion, it is proper that the entire controversy to which the judgment relates should be determined in the light of the submissions which may be made by the appellants.

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.

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.

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 aforestated, within four months from today and in any event, by the 30th September, 1991.

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

The appeal is disposed of as aforestated with no order as to costs.

V.P.R.

Appeal disposed of.
253

JUDIS