

CASE NO.:
Special Leave Petition (civil) 10288 of 2000

PETITIONER:
M/S GREEN PARK THEATRES ASSOCIATED P. LTD & ORS.

Vs.

RESPONDENT:
ASSOCIATION OF VICTIMS OF UPHAAR TRAGEDY & ORS.

DATE OF JUDGMENT: 17/08/2001

BENCH:
S. Rajendra Babu & Doraiswamy Raju

JUDGMENT:

J U D G M E N T
RAJENDRA BABU, J. :

A fire broke out at Uphaar theatre on the evening of June 30, 1997 in consequence of which a number of persons were either killed or injured. An Association was formed of victims of Uphaar tragedy. They filed a writ petition on the ground that the public authorities failed to discharge their statutory obligations and the standard of safeguards set out under the statute and the rules framed thereunder for the purpose of preventing a hazards of breaking out of fire was not observed. The license and permits to the theatre were issued contrary to the mandatory provisions of the statute and rules. The petitioners thereafter sought for adequate compensation to the victims in the said tragedy from the respondents for failure to observe the statutory obligations and also on the basis of the fundamental rights guaranteed under the Constitution.

The respondents in the writ petition, who are petitioners before us, raised a preliminary objection that the writ petition is not maintainable on various grounds that the extraordinary remedy of a writ petition cannot be used in case of a break out of fire in a theatre which is the result of complex series of causative factors for claiming and awarding damages to hundreds of persons as against the statutory authorities and the company owning the theatre. It was also detailed that the precise cause of the incident, the role of each of the individual parties and the extent of their blameworthiness, the manner in which the liability has to be apportioned and as to who are entitled to claim the damages and what is the extent of that amount ought to be awarded to each one of them and such questions relate to causation, the extent of culpability, people entitled to claim damages and the amount due to them and all such questions involve complex investigation based on evidence. Therefore, the writ petition was not an appropriate remedy and could not be maintained.

A Division Bench of the High Court considered the various contentions raised in the course of the arguments and wrote an order running to nearly 100 pages and ultimately held that at the preliminary stage the question of maintenance of the petition was being considered and, therefore, it is not deciding the case of merits. The facts referred to in the course of the order are as stated by the parties and not as found by way of a decision on merits. The observations and the reference to facts in the course of the order were only of preliminary character. The High Court held that all the court could say is that it could not be

concluded that the petition could not be maintained.

The learned counsel for the petitioners before us raised an apprehension that the court might adopt some procedure of appointing a Commission to gather certain facts which, by itself, may not be sufficient to dispose of the matter and that the Commission appointed would only to report whether the rules and regulations were complied therewith or not and no more.

Whatever be the apprehensions of the learned counsel they could very well be pointed out to the learned Judges of the High Court who would hear the matter ultimately before the High Court and address their arguments as to the manner in which a dispute of this nature could be resolved satisfactorily. We are sure that when such arguments are addressed before the High Court, they will be appropriately considered and therefore, there is absolutely no basis for any apprehension of this nature as entertained by the learned counsel for the petitioners.

Considering the nature of the order passed by the High Court and the arguments addressed before us, we do not think, there is any justification for us to interfere with the order made by the High Court.

This petition stands rejected.

.J.
[S. RAJENDRA BABU]

....J.
[DORAISWAMY RAJU]

AUGUST 17, 2001.