

CASE NO.:
Appeal (civil) 1895 of 2008

PETITIONER:
Chairman/Secretary, Urban Improvement Trust

RESPONDENT:
Madhu Sudan Purohit & Ors

DATE OF JUDGMENT: 10/03/2008

BENCH:
ASHOK BHAN & DALVEER BHANDARI

JUDGMENT:
JUDGMENT

O R D E R

CIVIL APPEAL NO.1895 OF 2008
[Arising out of S.L.P.(C)No.26064 of 2005]

Leave granted.

By the notification dated 20th/30th April 1984 issued by the Department of Art, Culture & Archaeology, Govt. of Rajasthan, the city wall around the Old Bikaner City and 20 feet area on both sides of the city wall was declared as protected area. In the year 2002 a scheme was formulated by the appellant-Trust under the Rajasthan Improvement Trust (Disposal of Urban Land) Rules, 1974 for construction of shops along the city wall near Fort School Area. The appellant also obtained no-objection from the Director, Archaeology & Museums Department, Jaipur. Under the above scheme, the appellant issued an advertisement for auction of the commercial plots. Pursuant to the said advertisement, a civil suit bearing No.43/2003 was filed for permanent injunction restraining the appellant from auctioning the commercial plots under the scheme. The Civil Judge passed an order restraining the appellant from carrying out the auction of the commercial plots. An appeal was filed against the said order.

In the meantime, a further notification dated 27th May 2003 was issued by which notification dated 20th/30th April 1984

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was amended and 20 feet of area on both sides of the wall which was also declared as protected area, did not remain a protected area any longer.

Writ Petition No.6822 of 2003 was filed before the High Court of Rajasthan challenging notification dated 27th May 2003.

In the meantime, learned District Judge set aside the order of the Civil Judge and remanded the matter for a fresh decision.

Division Bench of the High Court, by the impugned order, allowed the writ petition after recording its satisfaction in the following terms :

"Having heard learned counsel for the parties and perused the different maps produced before us, we are satisfied that if the Respondent is allowed to allot the subject land for construction of shops, it will create traffic problem. It is desirable that the subject area is left open."

It is apparent that the High Court has only recorded its satisfaction and no reasons have been assigned therefor.

Under these circumstances, we set aside the impugned order and remand the case back to the High Court for a fresh decision in accordance with law.

The appeal is allowed accordingly.