

(2010) 10 SHI CK 0187
In the High Court Of Himachal Pradesh
Case No : CMPMO No. 554 of 2009

Bimla Devi

APPELLANT

Vs

State of H.P. and Others

RESPONDENT

Date of Decision : 25-10-2010

Acts Referred:

Citation : (2010) 10 SHI CK 0187

Hon'ble Judges : Deepak Gupta, J

Bench : Single Bench

Judgement

Deepak Gupta, J.—This petition is directed against the order passed by the learned Additional District Judge, Una dated 1.8.2009 whereby the application filed by the petitioners (hereinafter referred to as the "plaintiffs") for restraining the respondent-State from installing and commissioning the sewerage treatment plant adjacent to the residential colony named as Shailja Vihar during the pendency of the appeal has been rejected.

2. Briefly stated the facts of the case are that the plaintiffs had filed a suit claiming virtually the same relief. This suit was partly decreed in favour of the plaintiffs and the State was restrained from installing and commissioning the said plant adjacent to Shailja Vihar but in the decree itself, it was made clear that in case No Objection Certificate from the State Pollution Control Board is received then the plant can be set up and the defendants shall abide by the conditions imposed by the Pollution Control Board.

3. The H.P State Environment Protection and Pollution Control Board, Shimla vide letter dated 22.8.2006 granted permission for establishment of the Sewerage Scheme and Sewage Treatment Plant for Una town subject to certain conditions.

4. Aggrieved by the judgment and decree of the learned Trial Court, the plaintiffs filed an appeal before the learned Lower Appellate Court and also filed an application for grant of interim relief. This application has been rejected by the learned Lower Appellate Court in the following terms:

17. For all the aforesaid reasons as discussed above, I find no merit in the application and the same is accordingly ordered to be dismissed. However, the defendants are directed to commission the sewerage treatment plant only after having strictly complied the stipulations mentioned in the no objection certificate issued by the State Pollution Control Board vide its letter dated 27.6.2009 more particularly conditions No. 17, 18 & 19. The treatment plant be commissioned only after having complied the conditions set out in the No Objection Certificate. With these observations, the application is disposed accordingly. The observations made hereinabove shall have no effect on the merits of the appeal. The application be tagged with the main appeal file after its due completion.

5. Undisputedly, the sewerage treatment plant has been set up. In fact, it is more than apparent that after the order of the District and Sessions Judge, Una, the same must have also been commissioned by now since no stay was granted by this Court. When a large amount of public money has been spent, private interest must give way to the larger public interest and, therefore, I find no error in the order of the learned Lower Appellate Court. It is however, made clear that these observations shall have no effect on the decision of the appeal which must be decided on the basis of the material placed before the learned Trial Court. Keeping in view the nature of the dispute, I also feel it would be proper that a direction should be issued to the learned Lower Appellate Court to decide the appeal at the earliest and in any event not later than 31st May, 2011.

6. With these observations, the petition is disposed of. The Registry is directed to send the record of the learned Trial Court back immediately. No order as to costs.