

(2010) 01 SC CK 0095

In the Supreme Court Of India

Case No : Civil Appeal No. 853 of 2010 (Arising out of SLP (C) No. 36678 of 2009)

Indore Development Authority

APPELLANT

Vs

Mangal Amusement (P.) Ltd.

RESPONDENT

Date of Decision : 22-01-2010

Acts Referred:

Nagar Tathagram Vinesh Adhiniyam, 1973 — Section 23A

Citation : AIR 2011 SC 199 : (2011) 3 CHN 137 Supp : (2010) 12 SCC 514

Hon'ble Judges : R. V. Raveendran, J; K. S. Panicker Radhakrishnan, J

Bench : Division Bench

Final Decision : Allowed

Judgement

1. Leave granted. Mr. T. Mahipal, learned Counsel appears on caveat for Respondents 1 and 2. Respondents 3 and 4 being proforma parties, insofar as the present appeal is concerned, notice to them is dispensed. Heard the learned Counsel.

2. Respondents 1 and 2 filed a writ petition before the Madhya Pradesh High Court challenging the constitutional validity of Section 23-A of the Nagar Tathagram Vinesh Adhiniyam 1973, as amended by Act No. 22 of 2005, and challenging the notification dated 19.11.2003 issued by the State Government regarding change of use of land and certain consequential reliefs.

3. It would appear that the writ petition was listed on several occasions. However, as it could not be finally disposed of, a Division Bench of the High Court on 9.10.2009 passed the impugned interim order permitting the writ Petitioners (Respondents 1 and 2) to construct at their own risk, a restaurant, Banquet Hall etc., in seven acres of land granted by the Appellant-Authority to them on licence basis for running a children's amusement park. Feeling aggrieved, the Appellant-Authority has filed this appeal by special leave.

4. Among several contentions on merits, the Authority has also contended that

the interim order virtually amounts to allowing the writ petition at the stage of interim order. We agree with the said contention. If Respondents 1 and 2 are permitted to construct the restaurant and banquet hall, etc. in a land held by them on licence from the Authority, even before the writ petition filed by them is heard and disposed, it would amount to allowing the writ petition at interim order stage. It will also cause complications if the writ petition is rejected ultimately. The more appropriate course would be to hear the main matter itself expeditiously.

5. Learned Counsel for the Respondents 1 and 2 submitted that the Appellant herein was not extending co-operation, for hearing and disposal of the writ petition and that was one of the reasons why the interim order was issued. Learned Counsel for the Appellant denied the allegation, but assured that the Appellant will be ready to argue and will extend co-operation for early disposal.

6. In view of the above, this appeal is allowed, the impugned interim order is set aside with a request to the High Court to dispose of the writ petition itself expeditiously, preferably within three months.