

ITEM NO.5

COURT NO.1

SECTION IX

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Petition for Special Leave to Appeal (C) No. 19845/2017

(Arising out of impugned final judgment and order dated 07-07-2017 in WP No. 5182/2017 passed by the High Court Of Judicature At Bombay At Aurangabad)

HOTEL SONAI BEER BAR AND PERMIT ROOM &amp; ANR.

Petitioners

VERSUS

STATE OF MAHARASHTRA &amp; ORS.

Respondents

(FOR ADMISSION and I.R. and IA No.68346/2017-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.68350/2017-EXEMPTION FROM FILING O.T.)

WITH

Diary No. 22446/2017 (IX)

(IA No.71962/2017-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.71965/2017-EXEMPTION FROM FILING O.T. and IA No.71960/2017-PERMISSION TO FILE SLP)

Diary No. 22968/2017 (IX)

(FOR ADMISSION and I.R. and IA No.73065/2017-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.73066/2017-EXEMPTION FROM FILING O.T. and IA No.73064/2017-PERMISSION TO FILE SLP)

Diary No. 24109/2017 (IX)

(FOR ADMISSION and I.R. and IA No.76527/2017-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.76529/2017-EXEMPTION FROM FILING O.T. and IA No.76526/2017-PERMISSION TO FILE SLP)

SLP(C) No. 22071/2017 (IX)

(FOR ADMISSION and I.R. and IA No.79813/2017-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.79812/2017-EXEMPTION FROM FILING O.T. and IA No.81577/2017-PERMISSION TO FILE ADDITIONAL DOCUMENTS)

Diary No. 26377/2017 (IX)

(IA No.84874/2017-PERMISSION TO FILE SLP/TP and IA No.84875/2017-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.84876/2017-EXEMPTION FROM FILING O.T.)

Diary No(s). 29164/2017 (IX)

(FOR ADMISSION and I.R. and IA No.117198/2017-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.117199/2017-EXEMPTION FROM FILING O.T. and IA No.117187/2017-PERMISSION TO FILE SLP/TP and IA No.117192/2017-CONDONATION OF DELAY IN REFILEING and IA No.130761/2017-impleading party and IA No.134720/2017-impleading party)

W.P.(C) No. 964/2017 (X)

(FOR ADMISSION and IA No.101721/2017-EXEMPTION FROM FILING O.T.)

W.P. (C) No. 1050/2017

Date : 13-12-2017 These matters were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE  
HON'BLE MR. JUSTICE A.M. KHANWILKAR  
HON'BLE DR. JUSTICE D.Y. CHANDRACHUD

For Petitioners

Mr. Prashant S. Kenjale, Adv.  
Mr. Nishant, Adv.  
Mr. Rakesh K. Sharma, AOR

Mr. F. I. Choudhury, AOR  
Mr. Nandkumar N. Deshmukh, Adv.  
Mr. Yatin M. Jagtap, Adv.  
Mr. Shakti Pandey, Adv.  
Mr. Ajit B. Kale, Adv.  
Mr. Shrikant R. Deshmukh, Adv.

For Respondents/  
Applicants

Mr. Nishant Ramakantrao Katneshwarkar, AOR

for impleaders

Mr. Suresh Kumar Sharma, Adv.

(I.A. 130761 & 134720  
in D.No. 29164/2017)

Ms. Iyengar Shubharanjini Ananth, AOR

UPON hearing the counsel the Court made the following

O R D E R

SLP(C) No. 19845/2017, Diary Nos. 22446/2017,  
22968/2017, 24109/2017, 26377/2017 and 29164/2017

Permission to file special leave petitions is granted.

Delay in refiling the special leave petition is condoned.

All impleadment applications are allowed.

Heard Mr. Prashant S. Kenjale, learned counsel for the petitioners and Mr. Nishant Ramakantrao Katneshwarkar, learned counsel appearing for the State of Maharashtra.

At the very outset, Mr. Kenjale, learned counsel

for the petitioners stated that he is putting forth the case of all the petitioners in the present special leave petitions. His singular point that has been canvassed before us is that the roads that are being treated as State roads, are actually not State Highways, having not been notified. Mr. Katneshwarkar, learned counsel for the State would submit that though there is no notification, the upgradation has been there, and the expert committee after considering the matter has opined that there should not be liquor shops and they should shift beyond the stipulated distance of 200 meters or 500 meters, as the case may be.

In view of the aforesaid, while declining to interfere, we permit the petitioners to shift, regard being had to the distance from the State road. If they shift and submit an application, the competent authority after scrutiny, shall revive their licences for the remainder of the period, within a week therefrom.

With the aforesaid observations and directions, the special leave petitions are disposed of. There shall be no order as to costs.

Pending interlocutory applications, if any, stand disposed of.

SLP(C) No. 22071/2017

Heard Mr. F.I. Choudhury, learned counsel appearing for the petitioners and Mr. Nishant Ramakantrao Katneshwarkar, learned counsel for the State of Maharashtra.

It is submitted by Mr. F.I. Choudhury that the shops in question are within the municipal area. This Court has recently in I.A. Nos. 1060-1062/2017 in Civil Appeal Nos. 12164-12166/2016, clarified the position as

stated thus:-

"The above observations make it clear that the purport of the judgment dated 15 December 2016 is to prohibit the sale of liquor along and in proximity of highways which provide connectivity between cities, towns and villages. In other words, this will not operate to prohibit licenced establishments within municipal areas. The clarification to the effect that it "shall govern other municipal areas as well" is clearly intended to set the matter at rest in relation to other parts of the country so as to obviate the need for repeated applications before this Court. The expression "other municipal areas" will apply to all municipal areas, wherever situated."

The aforesaid clarification shall apply in full force to the present petitioners if their shops are situated within the municipal area.

In view of the aforesaid, the special leave petition is disposed of.

Pending interlocutory applications, if any, also stand disposed of.

W.P. (C) Nos. 964/2017 and 1050/2017

Heard Mr. Prashant S. Kenjale, learned counsel for the petitioners and Mr. Nishant Ramakantrao Katneshwarkar, learned counsel appearing for the State of Maharashtra.

Having heard learned counsel for the parties, we think it appropriate to direct that each of the petitioners shall submit a representation within three weeks hence, stating that they are entitled to be governed by the principle as applicable to the municipal areas/MIDC developed areas. The individual facts shall be mentioned in each representation. The same shall be considered by the competent authority and decided, keeping in view the judgments of this Court, preferably within four weeks from the date of receipt

of the representation. Needless to say, the representation shall be decided by ascribing reasons and recording a finding. If the petitioners are aggrieved, they can approach this Court.

With the aforesaid directions and liberty, the writ petitions stand disposed of.

Pending interlocutory applications, if any, also stand disposed of.

(Deepak Guglani)  
Court Master

(H.S. Parasher)  
Assistant Registrar