

ITEM NO.18

COURT NO.2

SECTION III

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(s) for Special Leave to Appeal (C) Nos.97-134/2017

(Arising out of impugned final judgment and order dated 02/09/2016 in WP No. 43706/2016 02/09/2016 in WP No. 43871/2016 02/09/2016 in WP No. 43937/2016 02/09/2016 in WP No. 43938/2016 02/09/2016 in WP No. 43941/2016 02/09/2016 in WP No. 43948/2016 02/09/2016 in WP No. 43949/2016 02/09/2016 in WP No. 43950/2016 02/09/2016 in WP No. 43951/2016 02/09/2016 in WP No. 43969/2016 02/09/2016 in WP No. 44100/2016 02/09/2016 in WP No. 44107/2016 02/09/2016 in WP No. 44206/2016 02/09/2016 in WP No. 44233/2016 02/09/2016 in WP No. 44253/2016 02/09/2016 in WP No. 44254/2016 02/09/2016 in WP No. 44255/2016 02/09/2016 in WP No. 44256/2016 02/09/2016 in WP No. 44257/2016 02/09/2016 in WP No. 44258/2016 02/09/2016 in WP No. 44259/2016 02/09/2016 in WP No. 44260/2016 02/09/2016 in WP No. 44270/2016 02/09/2016 in WP No. 44271/2016 02/09/2016 in WP No. 44329/2016 02/09/2016 in WP No. 44417/2016 02/09/2016 in WP No. 44727/2016 02/09/2016 in WP No. 45967/2016 02/09/2016 in WP No. 46231/2016 02/09/2016 in WP No. 46232/2016 02/09/2016 in WP No. 46233/2016 02/09/2016 in WP No. 46234/2016 02/09/2016 in WP No. 46532/2016 02/09/2016 in WP No. 46533/2016 02/09/2016 in WP No. 46815/2016 02/09/2016 in WP No. 46963/2016 02/09/2016 in WP No. 47228/2016 02/09/2016 in WP No. 47713/2016 passed by the High Court of Karnataka at Bangalore)

THE STATE OF KARNATAKA AND ORS. ETC. ETC.

Petitioner(s)

VERSUS

B. RUDRAGOUDA ETC. ETC.

Respondent(s)

(With appln. (s) for exemption from filing O.T. and interim relief and office report)

Date : 13/02/2017 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE DIPAK MISRA  
HON'BLE MRS. JUSTICE R. BANUMATHI

For Petitioner(s) Mr. S.K. Bagaria, Sr. Adv.  
Ms. Anitha Shenoy, Adv.  
Mr. V. N. Raghupathy, AOR  
Mr. Ajith Singh, Adv.  
Mr. Parikshit P. Angadi, Adv.

For Respondent(s) Mr. P. Chidambaram, Sr. Adv.  
Mr. Mahesh Agarwal, Adv.  
Ms. Neeha Nagpal, Adv.  
Mr. Shashank Manish, Adv.  
Mr. E. C. Agrawala, AOR

Mr. K.N. Phanindra, Adv.  
Mr. Ninad Laud, Adv.  
Mr. Jayant Mohan, AOR  
Mr. Anjuman Tripathy, Adv.  
Mr. Karan Mathur, Adv.

Mr. Gourab Banerji, Sr. Adv.  
Mr. Rohit Sharma, Adv.  
Mr. Aditya Narayan, Adv.  
Mr. Rounak Nayak, Adv.  
Mr. Sahil Tagotra, Adv.  
Mr. O. P. Bhadani, AOR

Mr. S. Ganesh, Sr. Adv.  
Mr. Yashraj Singh Deora, AOR  
Ms. Priyadershinee Singh, Adv.

UPON hearing the counsel the Court made the following  
O R D E R

Heard Mr. S.K. Bagaria, learned senior counsel for the petitioners, Mr. P. Chidambaram, Mr. S. Ganesh and Mr. Gourab Banerji, learned senior counsel for the respondents.

The present special leave petitions assail the interim order dated 2<sup>nd</sup> September, 2016, whereby the High Court of Karnataka in a batch of writ petitions, has directed as follows:-

"In the result, subject to the condition of furnishing bank guarantee, as stipulated above, the respondents are restrained from collecting the forest development fee from the writ petitioners during the pendency of these writ petitions and the respondents shall not take any coercive action against the writ petitioners for non-payment of the forest development fees in terms of the Karnataka Forest (Amendment) Act, 2016."

The said paragraph is to be read in conjunction with the earlier paragraph which is to the following effect:-

"However, the writ petitioners are directed to furnish bank guarantee in respect of 25% per centum of the demand in relation to future transactions, in favour of the State of Karnataka. Upon furnishing such bank guarantee in respect of future transactions under the amended Act, the authorities concerned shall issue forest transit permits in favour fo the writ petitioners."

In essence, the High Court has directed that 25% should be furnished by way of bank guarantee towards the fees. We have been apprised at the Bar that the High Court has determined a schedule for disposal of the case and the State has not filed the counter affidavit.

In view of the aforesaid, we direct the State Government to file counter affidavit within four weeks hence and rejoinder affidavit, if any, be filed within four weeks therefrom. The High Court is requested to dispose of the matter within six months hence.

Be it noted, the interim order that has been passed by this Court was after the Karnataka Forest (Amendment) Act, 2016, has come into existence in place of the earlier enactment which has been declared as unconstitutional by the High Court. The matters challenging the said judgment and order of the High Court are pending before this Court wherein there has been a direction for stay of refund. We have also been told that the Act is an act of validation. Mr. P. Chidambaram, learned senior counsel for the respondents has urged that the Act really does not take away the base of the earlier judgment, but simply validates which is not. According to the learned senior counsel, the present piece of legislation basically tantamounts to nullification of the

earlier judgment without removing the base. Be that as it may, when a fees is imposed, the High Court should not have thought of bank guarantee. There could have been interim arrangement as advised in law. In our considered opinion, the interim arrangement should be that the respondents who have preferred the writ petitions before the High Court shall pay 50% of the demanded amount from the date of demand amount imposable under the provisions of the Act and furnish a bond for the rest of the amount. Our order shall take effect from the date the 2016 Act came into force.

With the aforesaid modification in the order of High Court, the special leave petitions stand disposed of. Any payment made in favour of the State shall be subject to the result of the writ petitions pending before the High Court.

(Chetan Kumar)  
Court Master

(H.S. Parasher)  
Court Master