

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION
CIVIL APPEAL NO. OF 2024
[Arising out of SLP(C) No.28519/2023]

UNION OF INDIA & ORS.

Appellant(s)

VERSUS

DOLBY BUILDERS PVT. LTD. & ORS.

Respondent(s)

O R D E R

Issue notice to the respondent.

Mr. Umesh Kumar Khaitan learned AOR accepts notice on behalf of the respondents.

Leave granted.

We have heard learned Additional Solicitor General for the appellants, learned senior counsel Mr. Mukul Rohatgi for respondent nos. 1 and 2 and Mr. Maninder Singh for respondent nos.3 and 4 and learned counsel Mr. Siddharth Dharmadhikari for the respondent-State.

The appellants are aggrieved by the impugned judgment of the division bench of the Bombay High Court and particularly the operative portion thereof which, for immediate reference, is extracted as under:

i. Petition is partly allowed.

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Reason:

The Circulars dated 18th May, 2011, 18th March 2015, 17th November 2015 and 23rd December 2022, issued by respondent nos.3 to 6 are quashed and set aside.

- iii. The impugned letter dated 9th March, 2021 issued by respondent nos.4-Flag Officer, Commanding-in-Chief, as a consequence, is also quashed and set aside.
- iv. Respondent no.1-MCGM is directed to process the application of the petitioners dated 6th June, 2019, without the requirement of any NOC from respondent nos.3 to 5, and take an appropriate decision thereon in accordance with law within a period of four months from the date of the order.
- v. Petition is disposed of in the above terms.

Learned ASG appearing for the appellants submitted that Direction no.2 by which the circulars dated 18th May, 2011, 18th March 2015, 17th November 2015 and 23rd December 2022 are quashed is a direction *in rem* whereas the respondent-writ petitioner before the High Court have assailed them only insofar as the said petitioners are concerned. Therefore, the impugned order insofar as the second direction is concerned being a direction *in rem* may be set aside in this appeal.

He further submitted that the other directions which have been issued vis-a-vis the respondents-writ petitioners before the High Court are concerned would seriously affect the security and defence and the apprehensions expressed by the appellants herein being serious that portion of the directions also may be stayed and set aside.

Per contra, learned senior counsel Mr. Mukul Rohatgi

appearing for the respondents-writ petitioners before the High Court submitted that the building which has now been demolished for the purpose of reconstruction comprised of ground + two floors with a height of 12 metres which was in existence since the mid of 1940s. That the petitioners herein had no concern regarding security or any other concern vis-a-vis the old building which was standing on the subject land. It is only now, when a new building of a similar height and dimension which is sought to be built that the appellants have sought to raise issues of security and defence etc. That all along when the erstwhile building stood on the subject land, there was no objection whatsoever raised by the appellant Naval Authorities. Therefore, there is absolutely no reason whatsoever for declining the grant of no objection to the respondent-writ petitioners before the High Court.

It was also submitted by learned senior counsel Mr. Mukul Rohatgi that if the directions issued by the High Court vis-a-vis the respondent-writ petitioners before the high Court are confined to these respondents only and there is also compliance of the same then respondent-writ petitioners before the High Court may not press their pleas regarding the vires of the aforesaid Circulars. In other words, 'no objection' may be granted to the respondent-writ petitioners before the High Court to develop the subject land, having regard to the averments and pleas taken by them before the High Court and on

which basis relief has been granted to them. That the respondent-writ petitioners before the High Court shall strictly abide by the pleas taken by them before the High Court and on the factual matrix that has been presented to the High Court.

Having regard to the submissions made at the Bar, we find that the directions issued by the High Court vis-a-vis the relief sought for by the respondent-writ petitioners before the High Court insofar as the issuance of the 'No Objection Certificate' and other directions are concerned shall be complied with by the appellants within a period of one month from today. On such compliance being made it is recorded that the respondent writ petitioners before the High Court shall not press their pleas with regard to the vires of the aforesaid circulars and the same shall stand withdrawn.

Needless to observe that this submission made on behalf of the respondent-writ petitioners before the High Court is with regard to the compliance to be made by the appellants vis-a-vis only respondent-the writ petitioners before the High Court.

It is further needless to observe that if any other party has assailed the vires of the said Circulars before the High Court or this Court, the said parties are at liberty to advance all arguments on the vires of the said circulars in accordance with law.

With the aforesaid observations and directions, the appeal stands partly allowed and disposed of.

Consequently, the impugned directions of the High Court stand modified in the aforesaid terms.

Pending application(s), if any, shall also stand disposed of.

., J
[B.V. NAGARATHNA]

., J
[AUGUSTINE GEORGE MASIH]

NEW DELHI,
JANUARY 22, 2024

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition for Special Leave to Appeal (C) No.28519/2023

(Arising out of impugned final judgment and order dated 27-09-2023 in WP No. 2724/2021 passed by the High Court of Judicature at Bombay)

UNION OF INDIA & ORS.

Petitioner(s)

VERSUS

DOLBY BUILDERS PVT. LTD. & ORS.

Respondent(s)

(IA No.268350/2023-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

Date : 22-01-2024 This petition was called on for hearing today.

CORAM : HON'BLE MRS. JUSTICE B.V. NAGARATHNA
HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

For Petitioner(s) Mr. Vikramjit Banerjee, A.S.G.
Ms. Sushma, Adv.
Mr. Saransh Kumar, Adv.
Mr. Akshay Nain, Adv.
Mr. Pratyush Shrivastav, Adv.
Dr. N. Visakamurthy, AOR

For Respondent(s) Mr. Umesh Kumar Khaitan, AOR
Mr. Mukul Rohatgi Sr, Adv.
Mr. Deepak Khurana, Adv.
Mr. Vineet Tayal, Adv.
Ms. Nishtha Wadhwa, Adv.

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

Issue notice to the respondent.

Mr. Umesh Kumar Khaitan learned AOR accepts notice on behalf of the respondents.

Leave granted.

The appeal stands partly allowed and disposed of in terms of the signed order.

Pending application(s), if any, shall also stand disposed of.

(KRITIKA TIWARI)
SENIOR PERSONAL ASSISTANT

(MALEKAR NAGARAJ)
COURT MASTER (NSH)