

(2011) 02 SC CK 0016
Supreme Court of India
Case No: Civil Appeal No. 2163 of 2009

Madan Parmaliya

APPELLANT

Vs

State of M.P. and
Others

RESPONDENT

Date of Decision: Feb. 15, 2011

Acts Referred:

- Constitution of India, 1950 - Article 226
- Madhya Pradesh Nagar Tatha Gram Nivesh Adhiniyam, 1973 - Section 14, 15, 16, 17A, 18(2), 20, 23A

Hon'ble Judges: G.S. Singhvi, J; Asok Kumar Ganguly, J

Bench: Division Bench

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

1. Encouraged by an apparently liberal approach adopted by the High Court in entertaining the petition filed by Center for Environment Protection Research and Development, Indore, a trust formed with the above object of protecting general health and protection of environment in city of Indore, wherein the constitutional validity of Sections 14, 16, 17A, 18(2) and 20 of the Madhya Pradesh Nagar Tatha Gram Nivesh Adhiniyam, 1973 (for short, "the 1973 Act") was challenged, the Appellant also filed writ petition under Article 226 of the Constitution of India in the name of public interest litigation and made the following prayers:

(a) declare Section 14, 15, 17A, 18 and 23A of the Madhya Pradesh Nagar Tatha Gram Nivesh Adhiniyam, 1973 duly amended from time to time being against the provisions of the Constitution of India and, therefore, is liable to be struck down;

(b) direct the Respondents to implement the directions for use of land in the Master Plan of the Indore as well as the other cities of Madhya pradesh and other schemes

for use of land directly, as provided in the Indore Master Plan and other cities and any change in the land use should be cancelled and the same should be allowed to be sued as provided in the Master Plan and other city development schemes;

(c) restrain the Respondent from finalizing the Master Plan/ Development Scheme of the Indore City till the disposal of the present Writ Petition.

2. By an order dated 23.3.2007, the High Court dismissed the writ petition filed by Center for Environment Protection Research and Development and upheld the constitutionality of the provisions, which were challenged in that petition. Notwithstanding this, the Appellant insisted for separate hearing of his case by stating that he wants to urge additional grounds. The High Court considered the additional grounds and negated his challenge to the validity of Sections 14, 15, 17A, 18 and 23 A of the 1973 Act.

3. We have heard Learned Counsel for the parties. At the threshold, we asked Shri Vivek Dalai, Learned Counsel for the Appellant to show as to how his client was entitled to file writ petition in the name of public interest litigation for striking down some provisions of the 1973 Act and to restrain the Respondent "from finalising the Master Plan/Development Plan for the city of Indore. In reply, Shri Dalai submitted that the Appellant had invoked jurisdiction of the High Court in public interest because he is a social worker. However, he could not give the particulars of the work done by the Appellant. That apart, we find that in the writ petition filed by him, the Appellant had not even averred that he was a social worker; Therefore, we are constrained to observe the writ petition filed by the Appellant in the name of public interest litigation questioning the constitutional validity of various sections of the 1973 Act was totally misconceived and the High Court committed an error by entertaining the same ignoring the judgment of this Court in [Guruvayur Devaswom Managng Commit. and Another Vs C.K. Rajan and Others](#)

4. It is also apposite to mention that the Appellant did not raise any objection to the Master Plan for Indore notified on 21.3.1975 and the draft Indore Development Plan 2021, which was notified on 7.7.2006. Therefore, he does not have the locus to question the Master Plan/Indore Development Plan and the same cannot be annulled at his instance, more so because Indore Development Plan was finally notified after the decision of the writ petition and legality thereof has not been questioned before this Court.

5. We also do not find any merit in the Appellant's challenge to the constitutionality of Sections 14, 15, 17A, 18 and 23A of the 1973 Act and approve the detailed reasons recorded by the High Court while dismissing the writ petition filed by him as also Writ Petition No, 13753 of 2006.

6. The appeal is accordingly dismissed. For filing frivolous writ petition and appeal, the Appellant is saddled with cost of Rs. 1,00,000/-. He shall deposit Rs. 50,000/- with the Supreme Court Legal Services Committee within three months from today. The

remaining amount shall be deposited with the Madhya Pradesh State Legal Services Authority within the same period.