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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.9448 OF 2010

Lavasa Corporation Ltd. & Anr.

..Petitioners

Vs.

The Union of India & Ors.

..Respondents

Mr.Shekhar Naphade, Senior Advocate with Mr.Janak Dwarkadas, Senior Advocate with Mr.G.S.Godbole, Gaurav Joshi, A.A.Joshi, Makrant Gandhi, Satyen Vora, Ms.Tanvi Gandhi, Prashant Bhelani, Ms.Amisha shah, A.T.Suryavanshi, Jankhana Mehta, Sahil Gandhi, Rohan Yagnik, Sanmish Yagnik i/b. M/s.Makrant Gandhi & Co. for petitioners.
Mr.for respondents.

Mr.D.J.Khambatta, Additional Solicitor General with Mr.Nitin Jamdar, Ms.S.V.Bharucha, Ms.Naveen Kumar for respondent No.1.

Mr.S.K.Shinde AGP for respondent No.4.

CORAM : D.K.DESHMUKH &
N.D.DESHPANDE, JJ.

DATE : DECEMBER 7, 2010

PC.

1. Heard learned Counsel appearing for the petitioners and the learned Additional Solicitor General for respondent Union of India.

2. We expressed our concern to the learned Additional Solicitor General that by the show cause notice dated 25th November, 2010, the petitioners have been asked to stop the entire construction and development activities which is admittedly going on for a number of years and this has been done without granting the petitioners an opportunity even of making a representation against the interim order that is made in the show cause notice. The learned Additional Solicitor General stated that respondent No.3 is willing to hear the petitioners on the question whether during the period he considers the response of the petitioners to show cause, whether any interim order should be made, he stated that respondent No.3 will make the order on that issue within a period of one week from today, in case the petitioners appear before respondent No.3 – Director on 9th December, 2010. The learned Additional Solicitor General also makes a statement that, in the show cause notice the word “ante” is a mistake and that the show cause notice does not require petitioners to pull down or undo any development/construction work carried out prior to the final order that may be passed on the show cause notice. The statement is accepted.

3. The learned Counsel for the petitioners submitted that till respondent No.3 hears the petitioners on the aforesaid aspect and makes an order, that part of the show cause notice by which the petitioners are restrained from carrying on construction/development work should be stayed. He submitted that if such an order is made, they voluntarily undertake not to carry on any construction/development work till 16th December, 2010, the date by which respondent No.3 is to make the

order according to the statement made by the learned Additional Solicitor General. The statement is accepted.

4. In our opinion, considering that the order of status quo has been admittedly made by respondent No.3 without giving the petitioners an opportunity to make any representation and as we do not find any reason given in the show cause notice independently for making the interim order though the learned Additional Solicitor General submitted that the reason given in the show cause notice that the construction is being carried out without obtaining the permission of the Central Government is good enough reason for making interim order. To our mind it appears that that reason has been given for issuing the show cause notice.

5. In our opinion, at least separate reasons ought to have been given in the show cause notice itself for making the interim order which has drastic consequences. In our opinion, taking over all view of the matter, and in view of the statements made by the learned Counsel appearing for the parties which we have accepted above, the following order would meet the ends of justice.

6. The order of status-quo contained in the show cause notice is stayed. The petitioners to appear before respondent No.3 on 9th December, 2010. Respondent No.3 shall hear the petitioners on the question whether any interim order to operate till final order on the show cause notice is to be made or not. Respondent No.3 shall make

final order on the aforesaid question with reasons therefor on or before 16th December, 2010.

7. We have also accepted the statements made by the learned Counsel appearing for the petitioners that though this Court has granted interim order, petitioners shall not carry out any construction/development work till 16th December, 2010 when the matter is to appear on board of this Court.

8. Respondent No.3 is also directed to hear the complainant National Alliance of People Movement along with the petitioners and Mr.P.C.Ahuja, intervenor. Put up with connected matters on 16th December, 2010.

(N.D.DESHPANDE,J.)

(D.K.DESHMUKH,J.)