

A SMT. BIRWATI CHAUDHARY & ORS.

v.

THE STATE OF HARYANA & ORS.

(Civil Appeal No. 8376 of 2018)

B AUGUST 20, 2018

[ABHAY MANOHAR SAPRE AND UDAY UMESH LALIT, JJ.]

C *Interlocutory Order: Appellant filed a Writ petition before the High Court and prayed for grant of interim stay during pendency of Writ petition in relation to the subject mater of the land in question – High Court rejected the application for stay observing that since the required land is lying vacant, there is no reason to grant any stay – On appeal, held: High Court did not give adequate reason for not granting stay and the reason given was not in itself justified reason – Matter remitted to High Court to decide the ad*
D *interim prayer afresh.*

Allowing the appeal and remitting the matter to High Court, the Court

E **HELD: The Court is required to support justifiable reason(s) to either grant or reject keeping in view the facts and the law applicable to the controversy involved. It was not so found in the impugned order and, therefore, the order of remand is called for to decide the matter afresh in accordance with law. [Para 9] [935-G-H; 936-A]**

F CIVIL APPELLATE JURISDICTION : Civil Appeal No. 8376 of 2018

From the Judgment and Order dated 10.08.2017 of the High Court of Punjab and Haryana at Chandigarh in CM No. 10834 of 2017 in Civil Writ Petition No. 10546 of 2016 .

G Jasbir Singh Malik, Ms. Usha Nandini V., Manoj Swarup, Ankit Swarup, Ms. Mansi Jain, Ms. Vidisha Swarup, Mukul Kumar, Rakesh K. Mudgal, Dinesh Mudgal, Vishwa Pal Singh, Advs. for the appearing parties.

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The Judgment of the Court was delivered by A

ABHAY MANOHAR SAPRE, J. 1. Leave granted.

2. This appeal arises from the interim order dated 10.08.2017 passed by the High Court of Punjab & Haryana at Chandigarh in C.M. No.10834 of 2017 in Civil Writ Petition No.10546 of 2016 whereby the High Court rejected the application for stay filed by the appellants herein. B

3. Few relevant facts need to be mentioned *infra* for the disposal of the appeal, which involves a short question.

4. In a pending writ petition (C.W.P. No.10546/2016) filed by the appellants herein against the State in the High Court of Punjab & Haryana, the writ petitioners (appellants herein) prayed for grant of ad-interim stay during the pendency of the writ petition in relation to the subject matter of the land in question. C

5. By impugned order, the High Court declined to grant the ad-interim stay observing: D

“As the required land is lying vacant, we do not find any reason to grant any stay.”

6. It is against the aforementioned order, the writ petitioners have filed this appeal by way of special leave in this Court.

7. Having heard the learned counsel for the parties and on perusal of the record of the case, we are inclined to allow the appeal, set aside the impugned order and remand the case to the High Court to decide the ad-interim prayer made by the appellants (writ petitioners) afresh or/ and consider disposing of the writ petition itself, as the case may be, in accordance with law. F

8. The reason to remand the case has occasioned due to the fact that firstly, no adequate reason is given in the impugned order for not granting stay; and secondly, the reason given does not in itself justify the rejection having regard to the nature of controversy involved in the writ petition. G

9. In short, justifiable reason(s) to support either the grant or rejection need(s) to be stated keeping in view the facts and the law applicable to the controversy involved. It is not so found in the impugned

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A order and hence the order of remand is called for to decide the matter afresh in accordance with law.

10. In view of the foregoing discussion, the appeal succeeds and is accordingly allowed. Impugned order is set aside and the case is remanded to the High Court to decide the issue afresh on merits strictly in accordance with law without being influenced by any of our observations made above, which we have refrained to make having formed an opinion to remand the case to the High Court for the reasons mentioned above.

Devika Gujral

Appeal allowed.