

THE STATE OF TAMIL NADU REP. BY SEC. AND ORS. A

v.

K. BALU AND ANR.

(MA Nos 690-692/2017 and 369-371/2018)

In B

(Civil Appeal Nos. 12164-12166 of 2016)

FEBRUARY 23, 2018

[DIPAK MISRA, CJI, AMITAVA ROY AND
DR. D. Y. CHANDRACHUD, JJ.] C

Liquor – Sale of – In the States of Mizoram and Assam – In order dated 31.3.2017, exemption was granted to the State of Meghalaya and Sikkim from the application of the 500 meter distance requirement provided in paragraph 24(v)(iii) of the judgment dated 15.12.2016 – This exemption was granted in view of the peculiar topography of the States of Sikkim and Meghalaya – Subsequently, the same exemption was granted to State of Arunachal Pradesh also – In the instant applications, the State of Mizoram and Assam sought similar exemption submitting that the hilly terrain of the State necessitates the grant of the same exemption as was granted to the State of Meghalaya and Sikkim – In view of the peculiar topography of the State of Mizoram, the benefit of the exemption granted by the earlier order dated 31.3.2017 is extended to the State of Mizoram – As regards the State of Assam, the State was directed to file an affidavit indicating ‘hilly areas’ or the districts which can be called ‘hill/hilly areas’ so that appropriate orders can be passed – In view of the affidavit, benefit of order dated 31.3.2017 is extended to districts of the State of Assam namely, Karbi Anglong, West Karbi Anglong and Dima Hasao (North Cachar Hills) – MAs./IAs accordingly disposed of. D E F

State of Tamil Nadu v. K. Balu (2017) 6 SCC 715 – referred to. G

Case Law Reference

(2017) 6 SCC 715 referred to Para 1

CIVIL APPELLATE JURISDICTION: MA Nos. 690-692/2017
and 369-371/2018 in Civil Appeal Nos. 12164-12166 of 2016. H

A From the Judgment and Order dated 25.02.2013 and 28.03.2013 of the High Court of Judicature at Madras in Writ Petition No. 23773 of 2012, M. P. Nos. 9 and 10 of 2013 in Writ Petition No. 23773 of 2012.

B Abhishek Manu Singhvi, Sr. Adv., Roy Abraham, Ms. Seema Jain, Ms. Reena Roy, Himinder Lal, P.N. Goswami, Ms. Pranita Shekhar, Pawan K. Sharma, Shashi Ranjan, Dharmendra Kumar Sinha, Dr. Manish Singhvi, Satyendra Kumar, Shailja Nanda Mishra, Irshad Ahmad, Ashutosh Dubey, Krishnendu Sarkar, Ms. Rajshri, Abhishek Chauhan, V. S. Rawat, Sushil Pandey, Ms. Kuljit Kaur, Pragyan Pradip Sharma, Ms. Anandini Kumari, P. V. Yogeswaran, R. B. Phookan, Ms. Neha Tandon, Shailesh Madiyal, M. Yogesh Kanna, Yash Pal Dhingra, Ms. Nandini Sen Mukherjee, Ajay Marwah, Irshad Ahmad, Advs. for the Appellants.

C S.S. Shamsbery, AAG, C. L. Pandey, Sr. Adv., Ms. Binu Tamta, S.S. Rawat, Hemant Arya, G.S. Makker, Amit Sharma, Sandeep Singh, Ankit Raj, Ms. Indira Bhakar, Ms. Ruchi Kohli, Manish Kaushik, Ms. Ananya Pandey, Dipesh Sharma, Yash Pal Dhingra, G. Prakash, D Jishnu M. L., Mrs. Priyanka Prakash, Mrs. Beena Prakash, Vijay Shankar V. L., S. Thananjayan, Kaleeswaram Raj, Suvidutt M.S., Ajay Marwah, Advs. for the Respondents.

The following Order of the Court was delivered:

ORDER

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1. The States of Mizoram and Assam have filed the present MAs / IAs, which emanate from the judgment of this Court in **State of Tamil Nadu v K Balu**¹. By an order dated 31 March 2017, this Court exempted the States of Meghalaya and Sikkim from the application of the 500 meter distance requirement provided in paragraph 24(v)(iii) of the judgment dated 15 December 2016. This exemption was granted in view of the peculiar topography of the States of Sikkim and Meghalaya. The relevant part of the order dated 31 March 2017 is extracted below :

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“25. The third area is in relation to the States of Sikkim...

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and Meghalaya which have moved this Court for a suitable modification of the judgment having regard to the nature of the hilly terrain. In relation to the State of Sikkim, this Court has been apprised on behalf of the State Government that nearly 82 per cent of the area of the state is forested and 92 per cent of the

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¹ Civil Appeal 12164-12166/2016

shops will have to be closed as a result of the directions of this Court. Similarly, the State of Meghalaya has placed before this Court peculiar conditions prevailing in the State as a result of the hilly terrain. We are of the view that insofar as the States of Meghalaya and Sikkim are concerned, it would suffice if the two states are exempted only from the application of the 500 metre distance requirement provided in paragraph 24(v)(iii) of the judgment of this Court on 15 December 2016.”

Subsequently, by an order dated 12 July 2017, this Court had also extended the same exemption to the State of Arunachal Pradesh.

Mizoram

2. The State of Mizoram has submitted that the hilly terrain of the State necessitates the grant of the same exemption as was granted to the States of Meghalaya and Sikkim.

3. In view of the peculiar topography of the State of Mizoram, the benefit of the exemption granted by the earlier order dated 31 March 2017 is extended to the State of Mizoram.

Assam

4. As regards the State of Assam, this Court had by an order dated 4 December 2017 directed the State to file an affidavit indicating “hilly areas or the districts which can be called ‘hill/hilly areas’ so that appropriate orders can be passed.”

5. In pursuance of the order, an affidavit has been filed by the Secretary to the Government of Assam in the Department of Excise on 9 February 2018. The affidavit contains the following averments:

“3. That the aforesaid application upon being moved, this Hon’ble Court vide Order dated 4.12.2017 directed the State of Assam to file an affidavit indicating the hilly areas or the districts which can be called ‘hill/hilly’ areas so that appropriate orders can be passed.

4. That in compliance of the aforesaid direction, the instant affidavit is filed indicating the following facts:

A. That out of the 33 districts of the State of Assam, ‘Karbi Anglong,’ ‘West Karbi Anglong’ and ‘Dima Hasao’ (North Cachar Hills) are there hill districts contiguous with the hills of Meghalaya and Nagaland, which constitute 20% of the land mass of the State”

- A In view of the above disclosure on affidavit we extend the benefit of the order dated 31 March 2017 to the above districts of the State of Assam namely Karbi Anglong, West Karbi Anglong and Dima Hasao (North Cachar Hills). The State government would be at liberty to act accordingly.
- B 6. The MAs/IAs shall accordingly stand disposed of.

Devika Gujral

Applications disposed of.