

Madhya Pradesh High Court

M/S Desai Brothers Ltd. vs The State Of Madhya Pradesh on 24 August, 2011

W.P.No.14011/11

M/s Desai Brothers Ltd.

State of M.P. & others

24.8.2011

Shri Sanjay Mishra, Counsel for petitioner.

Shri Vivek Agrawal, G.A. for respondents.

It is submitted by the petitioner that identical matters have been entertained by this Court and interim order has been issued. It is further submitted by Shri Mishra that before the Apex Court, the matter is fixed for hearing on 2.9.2011 and this matter may be heard immediately thereafter.

It is further submitted by petitioner that identical matter was decided by a Division Bench of this Court in M/s Zunaid Enterprises & others Vs. State of M.P. & others in W.P.No.16775/2007 on 15.7.2010 and the writ petition was dismissed, after considering the judgment of Apex Court in State of Orissa and another Vs. K.B.Saha and sons Industries Pvt. Ltd., and others [(2007) 7 VST 214 (SC)]. Against the said order, petitioner and others have filed Special Leave Petition before the Apex Court, which has been registered as S.L.P.(Civil) No.25637/2010, in which the Apex Court has issued notice to the other side on 20.9.2010 and interim order has been passed. It is submitted that this petition may be entertained and interim order may be passed in the matter.

Shri Agrawal, learned G.A. appearing for State opposed the aforesaid contention and submitted that the entire controversy is covered by a Division Bench judgment of this Court in M/s Zunaid Enterprises (supra), so this petition may not be entertained.

Considering the fact that the Apex Court has entertained the petition, notices have been issued and interim order has been passed by the Apex Court, so we find it appropriate to entertain this writ petition, awaiting verdict from the Apex Court.

The Apex Court by order dated 20.9.2010 in S.L.P.(Civil) No.25637/2010 directed thus :-

"Issue notice.

Counsel appearing for the petitioners states that he had deposited 25% of the amount demanded and also furnished bank guarantee in terms of the order of the Division Bench of the Madhya Pradesh High Court. He shall keep the bank guarantee alive till the decision of this Court. No further coercive action shall be taken against

petitioners in respect of the amount involved in the present case till the next date."

W.P.No.14011/11 M/s Desai Brothers Ltd. State of M.P. & others 24.8.2011 In view of aforesaid order, till next date of hearing, we direct thus :-

1. Petitioner to deposit 25% of the amount demanded by the respondents.
2. Petitioner to further furnish bank guarantee of the remaining amount to the satisfaction of the authority and shall keep alive the bank guarantee till further orders of this Court.
3. Both the parties are directed to mention this case as and when the order dated 20.9.2010 is modified by the Apex Court or the S.L.P., is decided by the Apex Court.

In the meantime, respondents may file reply of this matter. Two extra copies of the petition may be served to Shri Agrawal, learned G.A.

Be listed for hearing along with W.P.No.14183/10 on 13.9.2011. C.C. as per rules.

(Krishn Kumar Lahoti)
Judge

(Smt.Vimla Jain)
Judge

C.