

ITEM NO.101

Court No.9

SECTION IX

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

CIVIL APPEAL NO(S). 4156-4159 OF 2002

KALIASAHARA LKIA HAWKERS UNION & A/R.

Appellant (s)

VERSUS

RAJIOLEAL CORPORATION, KERALAK PURSALAKS

Respondent(s)

(With appln(s) for directions, intervention, permission to place addl. documents on record and directions and modification/clarification and directions and for stay and for impoundment and classification)

With Civil Appeal NO. 4156-4159 of 2002

Civil Appeal NO. 4161-4162 of 2002

(with appln(s) for directions and permission to file additional documents)

Civil Appeal NO. 4163-4164 of 2002

(with appln(s) for permission to submit additional document(s) and directions)

Civil Appeal NO. 4160 of 2002 (appln(s) for stay)

Civil Appeal NO. 4170-4171 of 2002

Civil Appeal NO. 4167-4168 of 2002

(with appln(s) for intervention and intervention and impoundment of party respondent and directions)

Civil Appeal NO. 4165-4166 of 2002

Civil Appeal NO. 4175-4176 of 2002

(with appln(s) for permission to place addl. documents on record and substituted service and directions)

Civil Appeal NO. 4173-4174 of 2002

(with appln(s) for classification/modification of case's order)

Civil Appeal NO. 4172-4174 of 2002

Civil Appeal NO. 4178 of 2002

Civil Appeal NO. 4177 of 2002

Civil Appeal NO. 3661 of 2003

Civil Appeal NO. 3662 of 2003

Civil Appeal NO. 3663-3668 of 2003 (With office report)

Civil appeal NO. 3667 of 2003

(with appln(s) for production of records and with office report)

Contn. Petition(s) No. 140 of 2006 in C.A. NO. 4156-4157/2002

(With appln(s) for impoundment and with office report)

Contn. Petition(s) No. 26-27/2003 in C.A. No. 4156-4157/2002

Contn. Petition(s) no. 60-61/2003 in C.A. No. 4156-4157/2002

(with appln(s) for permission to file additional documents)

Contn. Petition(s) Nos. 113-117/2003 in C.A. no. 4156-4157/2002

(with appln(s) for permission to file additional affidavits)

Date: 30/11/2010 These Appeals were called on for hearing today.

ORAL :

HON'BLE MR. JUSTICE R. SUDHANSHU REDDY

HON'BLE MR. JUSTICE SURINDER SINGH NIGRA

For Appellants(s)
C.A. No. 455-57/09

Mr. Gour K. Kumar, Adv.
Mr. Anu Gupta, Adv.
Mr. Dheer Sharma, Adv.
Mr. S. Anuk Kumar, Adv.
Ms. Chakti Saikia, Adv.
Mr. Suchil Kumar Jain, Adv.

For Respondent(s)
for LAC

Mr. C.L. Vaharvati, ACJ
Mr. Dhanyava V. Joshi, Adv.
Mr. Ravi Kumar, Adv.
Mr. Nishil Sharma, Adv.

Ministry of Transport
(LAC)

Mr. D.S. Dasia, Sr. Adv.
Mr. Shailkundan Bhatti, Adv.
Mr. S.S. Mahan, Adv.

State of Maharashtra

Mr. Sanjay V. Khadke, Adv.
Ms. Asha Gopalani Nair, Adv.

CA No. 4156-51/2008
with Cont. Pet.

Mr. Shyam Diver, Sr. Adv.
Ms. Madhu Diver, Adv.
Mr. D. Shant Kumar, Adv.
Mr. Anirudh Rajpur, Adv.
Mr. Balasubramanyam Kerkar, Adv.
Mr. Anil K. Sar Gupta, Adv.

no. 140/2008

Mr. C.A. Khan, Adv.
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Mr. Prasant Kumar, Adv.
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Ms. Asha Gopalani Nair, Adv.
Ms. V.D. Khanna, Adv.
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Mr. Nishil Nayyar, Adv.
Mr. Sumita Hazarika, Adv.
Mr. Prasant Prakash, Adv.
Mr. L.C. Agnewala, Adv.
Mr. Anil Zaveri, Adv.
Mr. Vikram Mehta, Adv.
Mr. Vijay Kumar, Adv.
Mr. H.N. Rai, Adv.
Mr. Hemalata Jain, Adv.
Mr. Shashi Shankar Kumar, Adv.
Ms. Kamakshi S. Mehra, Adv.
Mr. Amit Kumar, Adv.
Mr. Jash Pal Dhillon, Adv.
Mr. K.K. Kashyap, Adv.

Mr. B.C. Kohli, Adv.
 Mr. Ajit Mondharia, Adv.
 Mr. M. Annaprasani, Adv.
 Mr. British Kumar Misra, Adv.
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 Mr. Aksh Kumar, Adv.
 Mr. Rani Lochmalani, Adv.
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 Mr. Navroz K. Rath, Adv.
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 Mr. Dorang Bhanjika, Sr. Adv.
 Mr. Shivaji M. Anandhu, Adv.
 Mr. Daji Nishor Sah, Adv.

Mr. Anil Gopalani Adv.
 Mr. Bhaskar Kumar Jain, Adv.
 Mr. Ravindra Keshavrao Asare, Adv.
 Mr. Chirag M. Sarani, Adv.
 Mr. Shakil Ahmed Syed, Adv.

Mr. Vijay Ramani, Sr. Adv.
 Mr. P.T. Jose, Adv.
 Mr. Suresh Yelke, Adv.
 Mr. L.K. Mishra, Adv.
 Mr. Satish G. Joshi, Adv.

Mr. Ashok Kumar Singh, Adv.
 Mr. Indrat Sangal, Adv.
 Mr. Sunil Kumar Jain, Adv.
 Mr. Venkatasubrahmanya Anandhu, Adv.
 Mr. Vinod Chandra S. Datta, Adv.
 Mr. Bhargava V. Desai, Adv.
 Mr. Vijay Kumar, Adv.
 Mr. Ghanshi Ramgunda, Adv.
 Mr. P. Ramaswami, Adv.
 Mr. M.T. Sarjani, Adv.

Mr. V.D. Sharma, Adv.
 Mr. Ruby Singh Ahuja, Adv.
 Mr. Navroz P. Kalia, Adv.
 Mr. V.N. Bhargava, Adv.

After hearing counsel the Court made the following

O R D E R

The Extraordinary Commissions appointed by this Court vide Order dated 9.12.2003 and 30.7.2004 are discontinued in terms of the signed order placed on the file.

List these matters after eight weeks.

In the meanwhile, cooperation to file Action Under Reports.

(Signed: Paul Kator)
Court Reporter

(Signed: Susan G.)
Court Reporter

(Signed Order for discontinuing the Complaints
is placed on the file)

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S). 4156-4157 OF 2002

KALYANSHAKA BIKA HAWKERS UNION & ORS.

Appellant (s)

VERSUS

MUNICIPAL CORPORATION, GREATER BOMBAY

Respondent (s)

With Civil Appeal No. 4158-4159 of 2002

Civil Appeal No. 4161-4162 of 2002

Civil Appeal No. 4163-4164 of 2002

Civil Appeal No. 4165 of 2002

Civil Appeal No. 4170-4171 of 2002

Civil Appeal No. 4167-4168 of 2002

Civil Appeal No. 4165-4166 of 2002

Civil Appeal No. 4175-4176 of 2002

Civil Appeal No. 4179-4180 of 2002

Civil Appeal No. 4172-4174 of 2002

Civil Appeal No. 4178 of 2002

Civil Appeal No. 4177 of 2002

Civil Appeal No. 4361 of 2002

Civil Appeal No. 4362 of 2002

Civil Appeal No. 4607-4608 of 2002

Civil Appeal No. 4607 of 2002

Comm. Petition(S) No. 140 of 2006 in C.A. No. 4156-4157/2002

Comm. Petition (s) No. 28-27/2008 in C.A. No. 4156-4157/2002

Comm. Petition(s) no. 21-81/2008 in C.A. No. 4156-4157/2002

Contn. Petition(S) Nos. 413-117/2008 in C.A. No. 4158-4159/2002

O R D E R

This Court vide order dated 9.12.2003 and 20.1.2004

had appointed three Standing Committees for Market City Eastern Suburbs and Western Suburbs, each for considering the suggestions and objections invited from the public for finalization of Hawking and Non-Hawking zones. The required expenditure for the functioning of these Committees is borne by the Municipal Corporation. It is brought to our notice that the Corporation has already spent an amount of Rs.60,50,966/- towards the remuneration of the Chairman, their mobile bills, travel and charges and that spent the Corporation has also provided to the said Committees

office premises, cloth, items/tyrinal, gown, landline telephone, computers etc. for which separate expenditure has been incurred by the Corporation. There is no dispute that Identification of Hawking and Non-Hawking Zones has already been done. This Court vide its Order dated 12.2.2007 directed the State Government to formulate the Scheme for hawkers based on National Urban Hawkers Policy which is stated to have been formulated by the State Government. In such view of the matter, no useful purpose will be served by continuing with the Three Members Committees constituted by earlier orders of this Court.

In the circumstances, an order for the discontinuance of the Three Members Committees herewith subject to the following:

1. Upon dissolution of the Committees the function of the Committees with regard to deciding applications in respect of designating lanes/streets as hawking zones/non-hawking zones will not be assigned to any authority.

2. The Municipal Corporation accepts the suggestion of C.I. Space and agrees with the directions given in para 14(c) of the judgment dated 9.12.2003 to be implemented by the following:-

"Complaints in respect of hawkers, encroachers and unauthorised parkings by shop owners shall be brought to the notice of the concerned Ward Officer who is an Assistant Municipal Commissioner (AMC). The Ward Officer concerned shall take immediate steps to respond to the complaint and remove the hawkers, encroachers and unauthorised parkings by shop owners where he finds to be in a non-hawking zone/area. In case the ward Officer takes no action, a written complaint may be filed by the officer to his immediate superior, the Deputy Municipal Commissioner (DMC) of the zone. The DMC shall look into the complaint and if found correct he will with the help of the police remove the hawkers, encroachers and unauthorised parkings by shop owners. The Officer-in-Charge of the police station concerned is directed to give prompt and immediate assistance

to the DCI. In the event of the DCI finding the complaint to be correct, he shall so record. An adverse remark in respect of the failure of the Ward Officer to perform his duty will be entered in the Confidential Report of the Ward Officer concerned. If more than 3 such entries are found in the record of an officer, it shall be a ground for withholding promotion. If more than 6 such entries are found in the record of an officer, it shall be a ground for termination of service."

3. The Municipal Corporation agrees that the functions of issuing licences to hawkers as contemplated in the Judgment dated 9.12.2009 read with the judgment dated 12.2.2009 will be discharged by a Senior Officer of the Municipal Corporation to be designated by the Municipal Commissioner.

4. This arrangement shall be in force until the MCHM's Hawkers (Regulation of Activity) Bye Law 2009 comes into force. Thereby in accordance with the order dated 12.11.2009 these directions will cease to exist. There shall be an order accordingly.

.....J.
(RISHI KUMAR SHARMA)

.....S.
(SURINDER SINGH KADGAR)

New Delhi,
November 30, 2010