

WELFARE ASSOCIATION, SECTOR 7,
URBAN ESTATE, FARIDABAD

v.

RAJIV KAPOOR AND ORS.

MARCH 20, 1996

[K. RAMASWAMY, S.P. BHARUCHA AND
K.S. PARIPOORNAN, JJ.]

Environmental Law—Urban Development Authority—Plan—Green Belt Area—Conversion into petrol pump by respondents—Injunction sought against by Welfare Association—Ad interim injunction granted by Trial Court—Vacated subsequently—Appellate Court also granting ad interim injunction—Vacation of order of Appellate Court and affirmation of that of Trial Court by High Court—Appeal—Held, High Court was not wholly unjustified in interfering with order of Appellate Court—In view of pendency of suit interference with order of High Court held not called for—Direction to Trial Judge to dispose of the suit expeditiously—Pending disposal of suit respondents to continue to run petrol pump subject to decision in suit.

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 5269 of 1996.

From the Judgment and Order dated 10.5.95 of the Punjab & Haryana High Court in C.R.P. No. 1191 of 1995.

Gopal Subramaniam, A. Rawal, Rajesh Kr. Sharma and Goodwill Indeevar for the Appellants.

Dushyant Dave, Vivek Sibal, S.M. Sareen, P.N. Puri for the Respondents.

R.K. Jain for the Respondent 2.

The following Order of the Court was delivered :

Leave granted. We have heard learned counsel on both sides.

This appeal by special leave arises from the order of the learned single Judge of the High Court of Punjab & Haryana passed in Civil

- A Revision Petition No. 1191 of 1995. The appellant- Association is seeking preservation of the green belt in Sector 7 marked in the plans prepared by the Faridabad Urban Development Authority. The appellant had filed a civil suit for perpetual injunction restraining the respondents from converting the green belt into a petrol pump to be run by the first respondent. The trial Court, pending suit, though initially it had granted ad- interim injunction, vacated the same. The District Judge held that *prima facie* case for granting injunction was made out against the respondents. Accordingly ad-interim injunction was granted. On revision, the High Court has vacated the order of the appellate Court and affirmed that of the trial Court. Thus this appeal by special leave.

- C After spending considerable time, in view of the material on record, we cannot hold that the High Court is wholly unjustified in interfering with the order of the appellate Court. However, since the suit is pending, we decline to go into the merits of the case. Therefore, we are not inclined to interfere with the order of the High Court. However, the observations and findings recorded by the courts below should not in any way affect the final disposal of the suit. On the facts and circumstances of this case, we think that the trial Judge should dispose of the suit as expeditiously as possible within a period of four months from the date of receipt of this order. Pending disposal of the suit, the first respondent is at liberty to continue to run the petrol pump, as it exists today, without causing any detriment to the environment. Any action taken by the first respondent would be subject to the result in the suit. It is needless to mention that the first respondent is not entitled to plead any equity at the time of disposal of the suit.

- E The appeal is disposed of accordingly. No Costs.

- F T.N.A.

Appeal disposed of.