

ITEM NO.301

COURT NO.1

SECTION III

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

CURATIVE PETITION (C) No.198/2022 In R.P.(C) Diary No.18153/2022
In C.A. No.3701/2022

(Arising out of impugned final judgment and order dated 12-08-2022 in D No.18153/2022 09-05-2022 in C.A. No.3701/2022 passed by the Supreme Court of India)

AIRPORT AUTHORITY OF INDIA

Petitioner(s)

VERSUS

GMR AIRPORTS LTD. & ANR.

Respondent(s)

Date : 09-02-2024 This petition was circulated today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE SANJIV KHANNA
HON'BLE MR. JUSTICE B.R. GAVAI
HON'BLE MR. JUSTICE J.K. MAHESHWARI

For Petitioner(s) Mr. Tushar Mehta, SG

Mr. K.M. Nataraj, ASG
Mr. Vinayak Sharma, Adv.
Mr. Shubham Seth, Adv.
Mr. Anuj Panwar, Adv.
Mr. Sharath Nambiar, Adv.
Ms. Sandhya Kohli, Adv.
Mr. Lovekesh Aggarwal, Adv.
Mr. Nikilesh Ramachandran, AOR

For Respondent(s) Dr. A.M. Singhvi, Sr. Adv.
Mr. Maninder Singh, Sr. Adv.
Mr. Parag P. Tripathi, Sr. Adv.
Mr. Mahesh Agarwal, Adv.
Mr. Manu Krishnan, Adv.
Mr. Amit Bhandari, Adv.
Mr. Milanka Chaudhury, Adv.
Mr. M.s. Ananth, Adv.
Mr. Avishkar Singhvi, Adv.
Ms. Anwasha Padhi, Adv.
Mr. Ramaswamy Srinivasan, Adv.
Ms. Harshita Agarwal, Adv.
Ms. Madhavi Agarwal, Adv.
Ms. Naina Pankaj Dubey, Adv.
Mr. Abhinabh Garg, Adv.
Mr. Aryan Racch, Adv.
Mr. E.C. Agrawala, AOR

**UPON hearing the counsel the Court made the following
O R D E R**

- 1 We have heard Mr Tushar Mehta, Solicitor General of India appearing on behalf of the Union of India; Mr K M Nataraj, Additional Solicitor General, who appeared on behalf of the Airports Authority of India¹; and Dr Abhishek Manu Singhvi and Mr Parag P Tripathi, senior counsel for the respondents.
- 2 It has been urged that the Curative Petition would meet the parameters which have been spelt out by the judgment of this Court in **Rupa Ashok Hurra vs Ashok Hurra**² since the judgment of the High Court which has been affirmed by this Court has arrived at conclusions and findings without either the AAI or the Union of India being impleaded as parties to the proceedings.

1 “AAI”
2 (2002) 4 SCC 388

- 3 In this context, the Solicitor General relied on the provisions, *inter alia*, of:
- (i) Entry 29 of the Union List of the Seventh Schedule defining the jurisdiction of the Union Parliament over airports and airways;
 - (ii) Section 12(A) of the Airports Authority of India Act 1994 which contemplates “a lease of the premises of an airport ... to carry out some of its functions under Section 12”, meaning thereby that the lease has the effect of transferring some of the functions which are vested in the AAI with the ultimate lessee;
 - (iii) The Airports Economic Regulatory Authority of India Act 2008; and
 - (iv) The requirement of an operation, maintenance and development agreement together with a State support agreement.
- 4 It has been urged that all these provisions would substantively indicate that the Union Government and AAI have a vital stake and should have been heard by the High Court before the proceedings were concluded.
- 5 Dr Abhishek Manu Singhvi, senior counsel appearing on behalf of the respondent-concessionaire, on the other hand, has pointed out that the Curative Petition in the present case does not meet the parameters which have been spelt out in ***Rupa Ashok Hurra*** (*supra*). It has been urged that MIHAN India Limited in which there is a 26% share holding of the AAI was before the High Court and was duly heard before the judgment was delivered.
- 6 We are of the considered view that all aspects should be deferred to a fuller hearing including on the question of maintainability.
- 7 We accordingly direct that the proceedings be listed after two weeks, preferably on a non-miscellaneous day so that parties can be heard in

support of their respective cases before a final conclusion is arrived at by this Court.

- 8 The Registry shall take appropriate steps accordingly.

(CHETAN KUMAR)
A.R. -cum-P.S.

(SAROJ KUMARI GAUR)
Assistant Registrar