

ITEM NO.2

Court 6 (Video Conferencing)

SECTION XI-A

**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**

Petition(s) for Special Leave to Appeal (C) No.12289/2020

(Arising out of impugned final judgment and order dated 30-04-2020 in W.A No.648/2008 passed by the High Court of Kerala at Ernakulam)

THE STATE OF KERALA & ORS.

Petitioner(s)

VERSUS

THE STATE OF SIKKIM & ANR.

Respondent(s)

(With appln.(s) for I.R. and IA No.105513/2020-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

Date : 04-03-2021 This petition was called on for hearing today.

CORAM :

**HON'BLE DR. JUSTICE D.Y. CHANDRACHUD
HON'BLE MR. JUSTICE M.R. SHAH**

**For Petitioner(s) Mr. Pallav Sishodia, Sr. Adv.
Ms. Priyanka Prakash, Adv.
Ms. Beena Prakash, Adv.
Mr. G. Prakash, AOR**

**For Respondent(s)
Ms. Rohini Musa, AOR**

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

- 1 Mr Pallav Sisodia, learned senior counsel appearing on behalf of the petitioners submits that against the judgment of the Karnataka High Court, which has been adverted to in paragraph 24 of the impugned judgment and order of the Kerala High Court, Civil Appeal Nos 10466-10467 of 2011 are pending before this Court. On 2 December 2011, the following order was passed:-

“Delay condoned.

Leave granted.

The appeals will be heard on the SLP paper books. Additional documents, if any, may be filed by the parties.

Hearing expedited.

In the meantime, the operation of the impugned judgment, to the extent of direction with regard to refund of the amount already deposited, shall remain stayed.”

- 2 Learned senior counsel also submits that a contrary view was taken by the High Court of Judicature at Bombay which has been noticed in paragraphs 21 to 24 of the impugned judgment of the Kerala High Court. Against the judgment of the Bombay High Court, Civil Appeal Nos 6907-6908 of 2009 are pending. Mr Pallav Sisodia, learned senior counsel has also relied upon the judgment of a Bench of this Court of which one of us (Justice M R Shah) was a member reported in 2020 SCC Online SC 990.
- 3 Leave granted.
- 4 Tag with Civil Appeal Nos 10466-10476 of 2011.
- 5 Counter affidavit be filed within a period of eight weeks from today. Permission to file a compilation of additional documents is granted.
- 6 Hearing be expedited.
- 7 There shall be an ad-interim order by which the judgment of the High Court to the extent of the direction with regard to refund of the amount already deposited, shall remain stayed.

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

(SAROJ KUMARI GAUR)
Court Master