

A MODERN TERRY TOWEL LTD.  
v.  
SOLANKI MULJIBHAI REVABHAI HARIJAN VYAS AND ORS.

MAY 5, 2004

B [RAJENDRA BABU, CJ. AND G.P. MATHUR , J.]

*Environment Law :*

C *Environment pollution—Factory discharging trade effluent outside factory premises—Writ Petition—Order of closure of factory—Court directing unit to deposit certain amount as a condition for restarting a unit not generating any effluent—Subsequently in terms of agreement, affected persons compensated, effluent treatment plant set up and pollution control norms satisfied—Disposal of writ petition without any order*  
D *regarding refund of amount deposited—Application for refund of amount deposited—Disposed of directing that it could be revived after cases pending before Supreme Court are disposed of—On appeal, held : Affected persons having been satisfied with the compensation paid, High Court should have refunded the amount treating the case separately—Hence,*  
E *order of High Court set aside and matter remitted back for fresh consideration.*

**Appellant-industrial unit was discharging trade effluents outside the factory premises. A resident within the vicinity of the unit filed a writ petition. High Court ordered closure of the unit and also directed the appellant to deposit certain amount as a condition for restarting a unit not generating trade effluents. Thereafter, in terms of the agreement entered between the parties the affected persons were paid damages, effluent treatment plant was set up and pollution control norms were satisfied. This agreement was filed before the court on the basis of which High Court disposed of the writ petition allowing the same to be withdrawn. However, it did not make any order regarding the refund of the amount deposited by the appellant before the Court. Appellant filed an application for refund of the amount deposited. High Court disposed of the application directing that it could be revived**  
H **after the cases pending before the Supreme Court are disposed of.**

Hence the appeal.

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Appellant-industrial unit contended that the writ petition having been withdrawn, the concerned persons who had suffered damage having been compensated, the question of continuing to keep the said amounts deposited in Court would not arise, and that this case stands entirely on different footing from other cases pending before this Court.

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Allowing the appeal, the Court

HELD : Degradation of environment or damage, if any, suffered by the residents residing in the vicinity having been satisfied with the compensation paid to them in terms of the agreement which was produced before the High Court, the Effluent Treatment Plant having been set up and with pollution control norms having been satisfied, the High Court ought to have considered the question of refund of the amounts deposited with the Court and should have treated this case on a different footing altogether and not connected with other cases pending before this Court. Hence, order of High Court is set aside and matter is remitted back to it for fresh consideration. [105-B-D]

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CIVIL APPELLATE JURISDICTION : Civil Appeal No. 2991 of 2004.

E

From the Judgment and Order dated 21.12.2001 of the Gujarat High Court in C.Appln. No. 4361/2001 in C.Appln. No. 1074 of 1998.

R.F. Nariman, Ms. Manik Karanjawala for the Appellant.

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Ms. Hemantika Wahi for the Respondent Nos. 2-3.

E.C. Agrawala for the Respondent No. 1.

The Judgment of the Court was delivered by

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**RAJENDRA BABU, CJ. :** Leave granted.

A writ petition was filed in the High Court by a resident within the vicinity of a unit of the appellant on the allegation that the appellant was

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A letting out its trade effluents outside factory premises. On 16.12.1996 the High Court appointed a Committee to make a report regarding discharge of effluent. On the filing of Report by that Committee a show cause notice was issued to the appellant on 26.12.1996 in the light of the contents thereof. Thereafter, the High Court on 9.1.1997 directed the closure of the factory. In the course of the order made by the High Court it was noticed that the appellant could not say that there was no discharge of trade effluent. The High Court directed the appellant to deposit a sum of Rs. 75,000 and also ordered its closure. On 16.1.1997 by another order made the High Court directed the appellant to deposit a sum of Rs. 75 lakhs as a condition for restarting of the unit. On depositing such amounts in instalments the High Court directed restarting of certain activities which do not generate any kind of effluent. Then by an order made on 27.1.1998 the High Court disposed of the matter. In the course of the order made on that day it was noticed that an agreement had been entered into between the petitioner and certain other persons residing in the village with the appellant; that effluent treatment plant (ETP) was about to be commissioned and this would include training of the people of the industry for the operation and of the maintenance of the ETP; that the report filed by the Gujarat Pollution Control Board on examining the samples collected on 20.01.1999 indicated that the appellant is meeting the norms; that the petitioners and others in the writ petition filed before the High Court had been paid damages arising on account of discharge of effluents and had entered into an agreement which was filed before the High Court; and that the unit having met with the requirements of the Gujarat Pollution Control Board. On that basis, the High Court disposed of the writ petition allowing the same to be withdrawn. However, as regards the refund of the amount deposited by the appellant before the Court, the High Court stated that this aspect could be considered at a later stage.

Thereafter, an application was made for refund of the said amount in deposit. The High Court disposed of that application without making any order by making it clear that such application could be revived after the cases pending before this Court are disposed of.

In this appeal, it is urged before us that the writ petition having been withdrawn and the concerned persons who had suffered damage on account of discharge of effluents having been compensated, question of continuing

to keep the said amounts deposited in Court would not arise. It is further submitted that this case stands entirely on different footing from other cases pending before this Court because in other cases discharge of effluent was to a common ETP while no such discharge had been made in this case, except some of the effluents having been discharged into lands surrounding the factory. A

Degradation of environment or damage, if any, suffered by the residents residing in the vicinity having been satisfied with the compensation paid to them in terms of the agreement which was produced before the High Court, the ETP having been set up and with pollution control norms having been satisfied, the High Court ought to have considered question of refund of the amounts deposited with Court and should have treated this case on a different footing altogether and not connected with other cases pending before this Court. B

Therefore, we set aside the order made by the High Court, remit the matter to the High Court for fresh consideration of the application for refund and to dispose of the matter in accordance with law. C

The appeal is allowed accordingly. D

N.J.

Appeal allowed.