

REPORTABLE

**IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION**

**MA Nos 489-491/2018, 366-368/2018, 392-394/2018, 395-397/2018, 388-  
390/2018, 1543-1545/2017, 1546-1548/2017**

**AND**

**1549-1551/2017**

**IN**

**CIVIL APPEAL NOS 12164-12166 OF 2016**

**THE STATE OF TAMIL NADU REP.BY SEC.  
AND ORS**

**..Appellants**

**VERSUS**

**K. BALU AND ANR.**

**..Respondents**

**ORDER**

1 This batch of MAs/IAs arises from the judgment dated 15 December 2016 rendered by this Court in **State of Tamil Nadu v K Balu**<sup>1</sup> and the subsequent orders dated 31 March 2017 and 11 July 2017. The last of the above orders was delivered in **Arrive Safe Society of Chandigarh v The Union Territory of Chandigarh** <sup>2</sup>.

2 Though the reliefs which have been sought in the individual MAs/IAs may differ, during the course of the hearing there is a broad consensus that for the purpose of the present proceedings, it would be sufficient if this Court were to interpret paragraph 7 of the order dated 11 July 2017.

Paragraph 7 is extracted below:

“7. The purpose of the directions contained in the order dated 15 December 2016 is to deal with the sale of liquor along and in proximity of highways properly understood, which provide connectivity between cities, towns and villages. The order does not prohibit licensed establishments within municipal areas. This clarification shall govern other municipal areas as well. We have considered it appropriate to issue this clarification to set at rest any ambiguity and to obviate repeated recourse to IAs, before the Court.”

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<sup>1</sup> Civil Appeal 12164-12166/2016

<sup>2</sup> Special Leave Petition (C) No.10243 of 2017

3 Learned counsel submitted that the expression 'municipal areas' in the above paragraph was not intended to exclude areas within the jurisdiction of local self-governing bodies. Many of them, it is urged, may be developed in a manner similar to municipalities. Others, may be geographically proximate to an urban agglomeration. Hence it was urged that an appropriate direction may be issued to obviate uncertainties in application, occasioning the need for repeated recourse to this Court or, as the case may be, litigation in the High Courts.

4 The application has been opposed by one of the contesting intervenors who placed reliance on the decisions of this Court in **APSRTC v Abdul Kareem**<sup>3</sup> and **Cine Exhibitions Private Limited v Collector, District Gwalior**<sup>4</sup>. It has been urged that an application for modification or clarification of a judgment would fall within the realm of a review and hence the present applications would not be maintainable.

5 Dealing with the above objection, the learned counsel appearing on behalf of the applicants submit that they seek neither a review nor a modification of the orders passed by this Court. The attention of the Court

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3 (2007) 2 SCC 466

4 (2012) 6 SCC 698

was drawn to an order dated 13 December 2017 passed by this Court in Writ Petition (C) Nos 964/2017 and 1050/2017 in the following terms:

“Having heard learned counsel for the parties, we think it appropriate to direct that each of the petitioners shall submit a representation within three weeks hence, stating that they are entitled to be governed by the principle as applicable to the municipal areas/MIDC developed areas. The individual facts shall be mentioned in each representation. The same shall be considered by the competent authority and decided, keeping in view the judgments of this Court, preferably within four weeks from the date of receipt of the representation. Needless to say, the representation shall be decided by ascribing reasons and recording a finding. If the petitioners are aggrieved, they can approach this Court. With the aforesaid directions and liberty, the writ petitions stand disposed of. “

The submission is that it will suffice if permission is granted to the state governments to determine whether the applicants and similarly placed individuals are governed by the principle which was laid down by this Court in relation to municipal areas.

6 In **Cine Exhibitions Private Limited** (supra) a bench of two learned Judges comprising of Justice KSP Radhakrishnan and Justice Dipak Misra, (as the learned Chief Justice then was) held thus:

“Generally an application for correction of a typographical error or omission of a word, etc. in a judgment or order would lie, but a petition which is intended to review an order or judgment under Order 47 Rule 1 of the Code of Civil Procedure and in criminal proceedings except on the ground of an error apparent on the face of the record, could not be achieved by filing an application for

clarification/modification/recall or rehearing, for which a properly constituted review is the remedy. (Id at page 703-704)”

In the present proceedings neither is the Court called upon to review its judgment nor to modify its orders. In fact reliance has been placed on the orders passed by this Court on 11 July 2017 in **Arrive Safe Society**(supra) and subsequently in **Hotel Sonai Beer Bar and Permit Room v State of Maharashtra**<sup>5</sup> and the connected writ petitions referred to earlier.

7 In the order passed by this Court on 11 July 2017, it was observed that the purpose of the directions contained in the order dated 15 December 2016 is to deal with the sale of liquor along and in the proximity of highways properly understood, which provide connectivity between cities, towns and villages. Having regard to this object it was noted that the order does not prohibit licensed establishments within municipal areas. Indeed, in order to ensure that the order is uniformly understood across the country, this Court clarified that it will govern other municipal areas as well. In the subsequent order of this Court dated 13 December 2017, liberty has been granted to the licence holders to submit a representation to the state government that the same principle should apply to the licensed

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<sup>5</sup> Special Leave Petition (C) No 19845/2017

establishments of the petitioners, as they apply to municipal areas/MIDC developed areas (in relation to the State of Maharashtra).

8 Having regard to these directions, we are of the view that the state governments would not be precluded from determining whether the principle which has been laid down by this Court in the order dated 11 July 2017 in **Arrive Safe Society** (supra) should also apply to areas covered by local self-governing bodies and statutory development authorities. We are inclined to allow the state governments to make this determination since it is a question of fact as to whether an area covered by a local self-governing body is proximate to a municipal agglomeration or is sufficiently developed as to warrant the application of the same principle. In deciding as to whether the principle which has been set down in the order dated 11 July 2017 should be extended to a local self-governing body (or statutory development authority) the state governments would take recourse to all relevant circumstances including the nature and extent of development in the area and the object underlying the direction prohibiting the sale of liquor on national and the state highways. The use of the expression 'municipal areas' in the order dated 11 July 2017 does not prevent the state governments from making that determination

and from taking appropriate decisions consistent with the object of the orders passed by this Court. We leave it open to individual licensees to submit their representations to the competent authorities in the state governments if they are so advised upon which appropriate decisions may be taken by the state governments. We have issued this general direction to obviate both litigation before the High Courts and repeated recourse to applications to this Court.

9 With the above observations, the MAs/IAs shall stand disposed of.

.....CJI  
[DIPAK MISRA]

.....J  
[AMITAVA ROY]

.....J  
[Dr D Y CHANDRACHUD]

**New Delhi;  
February 23, 2018.**

**REPORTABLE**

**IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION**

**MA Nos 492-494/2018**

**IN**

**CIVIL APPEAL NOS 12164-12166 OF 2016**

**THE STATE OF TAMIL NADU REP.BY SEC.  
AND ORS**

**..Appellants**

**VERSUS**

**K. BALU AND ANR.**

**..Respondents**

**ORDER**

1 MAs/IAs have been filed by the State of Himachal Pradesh seeking parity of treatment with the State of Uttarakhand. In the case of the State of Himachal Pradesh, this Court by its order dated 31 March 2017 had observed thus:

“26.Insofar as the State of Himachal Pradesh is concerned, we are of the view that the exemption which has been granted earlier in respect of areas falling under local bodies with a population of 20,000 will sufficiently protect the interest of the State. No further

relaxation is granted over and above what has already been stated in that regard.”

2 In the case of the State of Uttarakhand, an order was passed by this Court on 4 August 2017 in MA No. 470 of 2017 in Civil Appeal Nos 12164-12166 of 2016 (**State of Tamil Nadu v K Balu**) in the following terms :

“2. Having given our thoughtful consideration to the aforesaid submission advanced on behalf of the State of Uttarakhand, and keeping in view the additional affidavit dated 17.7.2017 filed in this behalf, we are of the view, that the prayer made by the learned counsel deserves to be accepted for the districts of Uttarkashi, Chamoli, Rudraprayag, Tehri, Pauri Garhwal, Pithoragarh, Champawat, Bageshwar, Almora. Insofar as district Nanital is concerned, it deserves to be extended only to four tehsils – Nanital, Dhari, Kosya Kutauli and Betalghat, and with respect to district Dehradun, it deserves to be extended only to three tehsils - Chakrata, Kalsi and Tiuni.

3. It is clarified, that the concession is not extended to districts Haridwar and Udham Singh Nagar.”

In view of the order which has subsequently been passed on 4 August 2017 in the case of the State of Uttarakhand, the MAs/IAs filed by the State of Himachal Pradesh seek parity.

3 Before we can consider the request which has been made on behalf of the State of Himachal Pradesh, it is necessary that the court should be

apprised of those districts of the State which can be considered to be hilly areas or hilly districts. Such a course of action was followed by the court in the case of the State of Uttarakhand before, the order dated 4 August 2017 was passed.

4 We accordingly direct that an affidavit setting out the above particulars be filed within a period of four weeks from today. List thereafter.

.....CJI  
[DIPAK MISRA]

.....J  
[AMITAVA ROY]

.....J  
[Dr D Y CHANDRACHUD]

New Delhi;  
February 23, 2018.

REPORTABLE

**IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION**

**MA Nos 690-692/2017 AND 369-371/2018:**

**IN**

**CIVIL APPEAL NOS 12164-12166 OF 2016**

**THE STATE OF TAMIL NADU REP.BY SEC.  
AND ORS**

**..Appellants**

**VERSUS**

**K. BALU AND ANR.**

**..Respondents**

**ORDER**

1 The States of Mizoram and Assam have filed the present MAs/IAs, which emanate from the judgment of this Court in **State of Tamil Nadu v K Balu**<sup>6</sup>. By an order dated 31 March 2017, this Court exempted the States of Meghalaya and

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<sup>6</sup> Civil Appeal 12164-12166/2016

Sikkim from the application of the 500 meter distance requirement provided in paragraph 24(v)(iii) of the judgment dated 15 December 2016. This exemption was granted in view of the peculiar topography of the States of Sikkim and Meghalaya. The relevant part of the order dated 31 March 2017 is extracted below :

“25. The third area is in relation to the States of Sikkim... and Meghalaya which have moved this Court for a suitable modification of the judgment having regard to the nature of the hilly terrain. In relation to the State of Sikkim, this Court has been apprised on behalf of the State Government that nearly 82 per cent of the area of the state is forested and 92 per cent of the shops will have to be closed as a result of the directions of this Court. Similarly, the State of Meghalaya has placed before this Court peculiar conditions prevailing in the State as a result of the hilly terrain. We are of the view that insofar as the States of Meghalaya and Sikkim are concerned, it would suffice if the two states are exempted only from the application of the 500 metre distance requirement provided in paragraph 24(v)(iii) of the judgment of this Court on 15 December 2016.”

Subsequently, by an order dated 12 July 2017, this Court had also extended the same exemption to the State of Arunachal Pradesh.

### **Mizoram**

2 The State of Mizoram has submitted that the hilly terrain of the State necessitates the grant of the same exemption as was granted to the States of Meghalaya and Sikkim.

3 In view of the peculiar topography of the State of Mizoram, the benefit of the exemption granted by the earlier order dated 31 March 2017 is extended to the State of Mizoram.

### **Assam**

4 As regards the State of Assam, this Court had by an order dated 4 December 2017 directed the State to file an affidavit indicating “hilly areas or the districts which can be called ‘hill/hilly areas’ so that appropriate orders can be passed.”

5 In pursuance of the order, an affidavit has been filed by the Secretary to the Government of Assam in the Department of Excise on 9 February 2018. The affidavit contains the following averments:

“3. That the aforesaid application upon being moved, this Hon'ble Court vide Order dated 4.12.2017 directed the State of Assam to file an affidavit indicating the hilly areas or the districts which can be called ‘hill/hilly’ areas so that appropriate orders can be passed.

4. That in compliance of the aforesaid direction, the instant affidavit is filed indicating the following facts:

A. That out of the 33 districts of the State of Assam, ‘Karbi Anglong,’ West Karbi Anglong’ and ‘Dima Hasao’ (North Cachar Hills) are there hill districts contiguous with the hills of Meghalaya and Nagaland, which constitute 20% of the land mass of the State”

In view of the above disclosure on affidavit we extend the benefit of the order dated 31 March 2017 to the above districts of the State of Assam

namely Karbi Anglong, West Karbi Anglong and Dima Hasao (North Cachar Hills). The State government would be at liberty to act accordingly.

6 The MAs/IAs shall accordingly stand disposed of.

.....CJI  
[DIPAK MISRA]

.....J  
[AMITAVA ROY]

.....J  
[Dr D Y CHANDRACHUD]

New Delhi;  
February 23, 2018.

RE-R E V I S E D

ITEM NOS.32+27+28

COURT NO.1

SECTION XII

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGSM.A. Nos.690-692/2017 in  
Civil Appeal Nos. 12164-12166/2016THE STATE OF TAMIL NADU REP.BY SEC. AND ORS.  
VERSUS

..Appellants

K. BALU AND ANR.

..Respondents

(FOR ADMISSION FOR INTERVENTION/IMPLEADMENT ON IA 80411/2017 FOR INTERVENTION/IMPLEADMENT ON IA 80415/2017 FOR MODIFICATION OF COURT ORDER ON IA 80417/2017 FOR INTERVENTION/IMPLEADMENT ON IA 98129/2017 FOR MODIFICATION ON IA 98131/2017)

WITH

M.A. Nos. 1543-1545/2017 in C.A. Nos. 12164-12166/2016 (XII)  
(FOR MODIFICATION ON IA 123820/2017  
FOR INTERVENTION APPLICATION ON IA 130603/2017)M.A. Nos. 1546-1548/2017 in C.A. Nos. 12164-12166/2016 (XII)  
(FOR PERMISSION TO FILE APPLICATION FOR DIRECTION ON IA 130609/2017)M.A. Nos. 1549-1551/2017 in C.A. Nos. 12164-12166/2016 (XII)  
(FOR INTERVENTION APPLICATION ON IA 130614/2017)M.A. Nos. 489-491/2018 in C.A. Nos. 12164-12166/2016M.A. Nos. 492-494/2018 in C.A. Nos. 12164-12166/2016 (XII)  
(FOR ADMISSION and IA No.26321/2018-MODIFICATION)M.A. Nos. 366-368/2018 in C.A. Nos. 12164-12166/2016M.A. Nos. 369-371/2018 in C.A. No. 12164-12166/2016 (XII)  
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(FOR ADMISSION)M.A. Nos. 388-390/2018 in C.A. Nos. 12164-12166/2016 (XII)  
(FOR ADMISSION)

Date : 23-02-2018 These matters were called on for hearing today.

CORAM : HON'BLE THE CHIEF JUSTICE  
HON'BLE MR. JUSTICE AMITAVA ROY  
HON'BLE DR. JUSTICE D.Y. CHANDRACHUD

For Petitioners

Mr. Abhishek Manu Singhvi, Sr. Adv.  
Mr. Roy Abraham, Adv.  
Ms. Seema Jain, Adv.  
Ms. Reena Roy, Adv.

Mr. Himinder Lal, AOR

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Ms. Pranita Shekhar, Adv.  
Mr. Pawan K. Sharma, Adv.  
Mr. Shashi Ranjan, Adv.  
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Dr. Manish Singhvi, Adv.  
Mr. Satyendra Kumar, Adv.  
Mr. Shailja Nanda Mishra, Adv.  
Mr. Irshad Ahmad, AOR

Mr. Ashutosh Dubey, AOR  
Mr. Krishnendu Sarkar, Adv.  
Ms. Rajshri, Adv.  
Mr. Abhishek Chauhan, Adv.  
Mr. V.S. Rawat, Adv.  
Mr. Sushil Pandey, Adv.  
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Mr. Yash Pal Dhingra, AOR  
Ms. Nandini Sen Mukherjee, AOR

Mr. Ajay Marwah, AOR  
Mr. Irshad Ahmad, AOR

**For Respondents**

Ms. Binu Tamta, Adv.  
Mr. S.S. Rawat, Adv.  
Mr. Hemant Arya, Adv.  
Mr. G.S. Makker, Adv.

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Mr. Amit Sharma, Adv.  
Mr. Sandeep Singh, Adv.  
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Mr. Kaleeswaram Raj, Adv.  
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Mr. Ajay Marwah, AOR

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

M.A. Nos.489-491/2018, 366-368/2018, 392-394/2018, 395-397/2018, 388-390/2018, 1543-1545/2017, 1546-1548/2017 & 1549-1551/2017 in Civil Appeal Nos.12164-12166 of 2016

The M.As. are disposed of in terms of the signed reportable order.

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An affidavit setting out the particulars, as mentioned in paragraph 3 of the signed order, be filed within a period of four weeks from today.

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(Deepak Guglani)  
Court Master  
(Three signed reportable orders are placed on the file)

(H.S. Parasher)  
Assistant Registrar

R E V I S E D

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R E C O R D O F P R O C E E D I N G S

M.A. Nos.690-692/2017 in Civil Appeal Nos. 12164-12166/2016

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Mr. Irshad Ahmad, AOR

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Mr. S. Thananjayan, AOR

Mr. Kaleeswaram Raj, Adv.  
Mr. Suvidutt M.S., Adv.

Mr. Ajay Marwah, AOR

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

M.A. Nos.489-491/2018, 366-368/2018, 392-394/2018, 395-397/2018, 388-390/2018, 1543-1545/2017, 1546-1548/2017 & 1549-1551/2017 in Civil Appeal Nos.12164-12166 of 2016

The M.As. are disposed of in terms of the signed reportable order.

(Deepak Guglani)  
Court Master

(H.S. Parasher)  
Assistant Registrar

(Signed reportable order is placed on the file)