

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 10760 OF 2025
(@ SPECIAL LEAVE PETITION (CIVIL) NO. 18320/2019)

SURESH CHANDRA MAHARANA & ORS.

APPELLANTS

VERSUS

UNION OF INDIA & ORS.

RESPONDENTS

O R D E R

1. Heard Mr. Ashok Kumar Pradhan, learned senior counsel appearing for the petitioners and Dr. Menaka Guruswamy for the respondents.

2. Leave granted.

3. The Director General of Archaeological Survey of India, New Delhi (for short 'the ASI') *vide* order dated 01.10.2013 granted permission for construction over a protected area subject to certain conditions.

4. The said order was assailed by means of a writ petition that has been dismissed by the order impugned dated 15.04.2019. The High Court has dismissed the said writ petition primarily on two counts: that it sees no reason to interfere with the order when the same has been passed pursuant to the direction of the Supreme Court of India relegating the matter to the appropriate

authority, i.e., Director General, ASI for fresh consideration of the permission, if necessary; secondly, the Public Interest Litigation (PIL) filed in this regard was got dismissed as withdrawn and as such, it operates as *res judicata*.

5. We are afraid, first the withdrawal of a PIL is ordinarily not permissible and even if, the same is dismissed as withdrawn, it will not operate as *res judicata*. Secondly, the permission granted cannot be upheld simply because this Court had permitted the private respondents to approach the appropriate authority to consider the grant of permission. Therefore, the High Court went wrong in dismissing the challenge to the permission granted by the Director General, ASI without actually considering the matter on merits.

6. In view of the aforesaid facts and circumstances, we set aside the impugned order dated 15.04.2019 and remand the matter to the High Court for decision afresh in accordance with law as to whether the permission granted for construction on the protected area by the Director General, ASI is valid in law or is anyway illegal. The High Court shall consider the matter most expeditiously preferably within a period of six months. The stay order granted by this Court shall remain in operation for a period of six months or till the disposal of the petition by the High Court, whichever

is earlier. If the petition is not decided within the aforesaid period, it will be open for the appellants to move for extension of stay order or for fresh stay.

7. Dr. Menaka Guruswamy, learned senior counsel appearing for the respondent(s) has pointed out that pursuant to the order dated 01.10.2013 passed by the Director General, ASI, final order has been passed on 10.04.2014 granting permission for construction.

8. In view of the above, it will be open for the appellants to challenge the said order also, if so advised.

9. The appeal stands disposed of accordingly. Pending application(s), if any shall also stand disposed of.

.....J.
(PANKAJ MITHAL)

.....J.
(JOYMALYA BAGCHI)

NEW DELHI
19th AUGUST, 2025
GA

ITEM NO.28

COURT NO.8

SECTION XI-A

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

PETITION(S) FOR SPECIAL LEAVE TO APPEAL (C) NO(S). 18320/2019

[Arising out of impugned final judgment and order dated 15-04-2019 in WPC No. 6601/2014 passed by the High Court of Orissa at Cuttack]

SURESH CHANDRA MAHARANA & ORS.

PETITIONER(S)

VERSUS

UNION OF INDIA & ORS.

RESPONDENT(S)

(IA No. 57619/2023 - APPLICATION FOR TAKING ON RECORD
IA No. 113854/2019 - PERMISSION TO FILE ADDITIONAL
DOCUMENTS/FACTS/ANNEXURES)

Date : 19-08-2025 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE PANKAJ MITHAL
HON'BLE MR. JUSTICE JOYMALYA BAGCHI

For Petitioner(s) Mr. Ashok Kumar Pradhan, Sr. Adv.
Mr. Tejaswi Kumar Pradhan, AOR
Mr. Manoranjan Paikaray, Adv.
Mr. Aniruddha Purushotham, Adv.
Mr. Shashwat Panda, Adv.

For Respondent(s) Ms. Rashmi Bansal, AOR

Mr. Vikramjeet Banerjee, A.S.G.
Mr. Nachiketa Joshi, Sr. Adv.
Mr. Amit Sharma B, Adv.
Mr. Gibran Naushad, Adv.
Mr. Abhishek Sarkar, Adv.
Mr. Shreekant Neelappa Terdal, AOR
Mr. Amrish Kumar, AOR

Mr. A D N Rao, Sr. Adv.
Mr. Annam Venkatesh, AOR
Mr. Bomma Reddy Venkata Krishna, Adv.
Mr. Rahul Mishra, Adv.
Ms. Agrima Singh, Adv.
Mr. Satyarth Singh, Adv.

Mr. Pitambar Acharya, Advocate General
Mr. Milind Kumar, AOR
Ms. Visakha Raghuram, Adv.

Dr. Menaka Guruswamy, Sr. Adv.
Mr. Utkarsh Pratap, Adv.
Ms. Shaswati Pahri, Adv.
Mr. Tirth Kumar Sahu, Adv.
Mr. Niranjan Sahu, AOR
Mr. Sanjay Agrawal, Adv.
Ms. Eesha Sharma, Adv.
Bipasha Tripathy, Adv.
Ms. Shikha Saloni, Adv.
A. Shukla, Adv.

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

1. Leave granted.
2. The appeal stands disposed of in terms of the signed order. Pending application(s), if any, shall stand disposed of.

(Nidhi Mathur)
Court Master (NSH)

(Signed Order is placed on the file)

(Geeta Ahuja)
Assistant Registrar-cum-PS