

COURT OF DISTRICT JUDGE, BHOPAL

GAS CLAIM CASE NO. 1113 OF 1986

UNION OF INDIA

(Plaintiff)

Versus

UNION CARBIDE CORPORATION

(Defendant)

- 1. ZAHREELI GAS KAND SANGHARSH MORCHA CHHOLA NAKA UNION CARBIDE RAOD, BHOPAL. M.P.**
- 2. JANA SWASTHYA KENDRA (BHOPAL) GALI NO. 3, FARSHI WALI GALI, HOUSE NO. 66, KENCHI CHHOLA BHOPAL.**

(Interveners/Applicants.)

APPLICATION UNDER ORDER 1 RULE 8A READ WITH ORDER 1 RULE 10 AND SECTION 151 C.P. CODE.

The interveners/applicants humbly beg to submit as under :-

- (i) That the above suit has been filed by the plaintiff the Union of India, against the defendant, the Union Carbide Corporation, claiming damages for the loss of life and property arising out of the most terrible industrial disaster in the history of human civilisation, viz, the Bhopal Gas Episode of December, 1984.
 - (ii) That the interveners/applicants are voluntary organisations of the thousands of victims of the Gas Episode who are directly interested and involved in the legal and related issues pleading for adjudication before this Hon'ble Court.
 - (iii) That the interveners/applicants, who are directly and substantially interested and involved in the issue, wish to present their opinion before this Hon'ble Court and to take part in the proceedings in order to safeguard and defend the rights and lawful interest of the thousands of victims of the Gas episode.
 - (iv) That the plaintiff, the Union of India, has filed this representative suit in the capacity of the sole representative of the innumerable Gas victims who have been barred from filing any independent claim against the defendant on their own by an Act of Parliament. The interveners, who are voluntary organisation of thousands of such Gas victims on whose behalf the present suit has been filed, fear that the interests of the Gas victims are not being sufficiently and properly represented by the plaintiff.
 - (v) That the general rule of law is that each one of the victim or aggrieved
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person should be impleaded as a party in such a suit. However, the plaintiff has filed this suit as an exceptional case usurping the role of being the sole representative of the victims disabling each and every victim to put forward any independent claim. The victims have no say in the legal battle being fought (*sic*) their behalf and their fate is totally left at the mercy of the plaintiff. The interveners/applicants, being voluntary organisations of the victims, are not sure of the plaintiff that it would genuinely and effectively safeguard and represent the interests of the community, in view of the plaintiff's conduct so far.

- (vi) That the interveners/applicants have legal interest in the matter and the results of the suit may adversely affect them if they are not allowed to take part in the proceedings. The presence of the interveners/applicants is necessary to protect the interests of the Gas victims and to enable the Court to more effectively and completely adjudicate upon and settle all questions involved in the suit.
- (vii) That the interveners/applicants do not want to raise any controversy wholly dissociated or unconnected with the controversy raised in the suit. They only want to substantiate the claim of the Gas Victims by their presence in the proceedings of the case by acting as a pressure group to thwart any attempt by the parties to come to a settlement unjust to the victims or to hide the culpability of the defendant or to suppress the actual magnitude and gravity of the episode. The interveners/applicants have been consistently opposing any unjust settlement between the plaintiff and the defendant and have made serious efforts and are keen to expose the horrendous acts designs of the defendant before this Hon'ble Court. The plaintiff as well as the defendant are aware of the role and case of the interveners and if they are allowed to take part in the proceedings, it would not cause prejudice to any one.
- (viii) That each one of the members of the intervener voluntary organisation is a victim of the gas episode and is a claimant on whose behalf the plaintiff has filed this suit as per the Bhopal Gas Leak Disaster (proceeding *sic*. of claims) Act, 1985 (No. 21 of 1985). Even as per section 4 of the said Act, the claimants are permitted to be associated in the conduct of the suit or other proceedings relating to their claims. The interveners, being voluntary organisations of such claimants are also entitled to be associated in the conduct of this suit. The interveners are proper party in the suit, if not necessary party.
- (ix) That the provision contained in Rule 8-A of Order 1 of the Code of Civil Procedure is an enabling provision which is intended to permit joinder of voluntary organisations of citizens, such as the present interveners/applicants, directly and substantially interested and involved in the legal and related issues to present their opinion before the Court and to take part in the proceedings. It is an enabling provision for voluntary organisations, such as the present interveners/applicants to take action in defence of rights and lawful interests of the citizens. It would be in public interest to permit the interveners/applicants to take part in the proceedings of this suit and to present their case before this Hon'ble Court.

- (x) That ever since the leakage of the poisonous gases from the Bhopal Plant of the defendant, the interveners/applicants H.O.1 voluntary organisation has been deeply involved in organising the gas victims making them conscious of the damages caused to them and fighting for their claims for compensation, medical care and rehabilitation. The intervener/applicant No. 1 by building up a mass movement of the gas victims put pressure on the Central and State Government to provide immediate medical, monetary and other reliefs to the gas victims and has also been instrumental in mobilizing public opinion, sympathy and concern for the victims throughout the country and even abroad. The interveners/applicants have also from time to time tried to expose such acts of commission and commission (*sic*) of the plaintiff which have resulted in helping and aiding the defendant in reducing its moral and legal liability and answerability to the victims for this worst man-made disaster in the history of mankind. The interveners/applicants have from time to time exposed the subtle collusion between the plaintiff and the defendant aimed against the interest of the victims.
- (xi) That the intervener/applicant No. 1 also participated in Justice S.K. Singh Commission of Inquiry constituted for inquiry into the Bhopal Gas Leak Disaster and subsequently wound up by the State Government.
- (xii) That the intervener/applicant No.2 was established by the intervener/applicant No. 1 with a view to carry out medical investigations among the gas victims, to provide them medical relief and to advice and pressurise the Government to provide proper medical relief to the victims. The intervener/applicant No. 2 also filed a writ petition in the Supreme Court of India where upon the Hon'ble Court appointed a Committee (including a representative of the intervener/applicant No. 2 organisation) to supervise and advice the government. on providing medical relief to the victims.
- (xiii) That the intervener/applicant No. 1 also constituted a Rashtriya Abhiyan Samiti on Bhopal Gas Disaster constituting of 35 voluntary organisations from all over the country to mobilise public opinion all over the world and to focus attention on the plight and urgent needs of the Bhopal Gas Victims. The intervener/applicant No. 1 is the convener of the Rashtriya Abhiyan Samiti.
- (xiv) That Annexure 1 to this application enlists the tasks performed by the intervener/applicant No. 1 since its inception and Annexure No. 2 of these undertaken by the intervener/applicant No. 2. Annexure 3 to 92* documents relate to various activities of the intervener/applicant No. 1 and Annexure 93 to 118* documents relate to those of the intervener/applicant No. 2. Annexure 119 to 135* documents relate to the activities of the Rashtriya Abhiyan Samiti.
- (xv) That the intervener/applicants fear that the plaintiff and the defendant are making efforts to reach to an out of Court settlement which would be unjust to the victims and which would also save the defendant multinational

*The annexures have not been included. Ed

Corporation from exposure in the Court of law of the heinous crime committed by it to the victims of Bhopal in particular and to the humanity in general. The parties to the suit have made such attempts in past.

- (xvi) That it would be just and proper and expedient in the interest of justice to permit the intervener/applicants to become a party in this suit and to take part in the proceedings in order to effectively put forward the real claim of the victims.
- (xvii) That this Hon'ble Court has very wide discretion and inherent powers to allow this application and this is the fittest case to use its judicial discretion and invoke its inherent powers in favour of the intervener/applicant in order to do real justice to the thousands of innocent and helpless victims of Bhopal.
- (xviii) That the plaintiff filed a claim on behalf of the gas victims in the U.S. Court but failed to seek any injunction against the defendant restraining the latter from alienating its properties with a view to frustrate to the genuine claim of the victims. This failure of the plaintiff facilitated the defendant corporation to dispose off a major portion of its assets which has caused great injury to the victims. The victims being thousand of miles away from the U.S. Court and being devoid of the resources could not make their voices heard in the U.S. Court.
- (xix) That even after the dismissal of the claim filed in the U.S. Court, the plaintiff took about 4 months to file its claim in this court. This unnecessary delay on the part of the plaintiff further helped the defendant to dispose off its assets. Even after filing this suit, the plaintiff took about 2 months time to seek an injunction against the defendant.
- (xx) That the plaintiff, even after the observation made by Hon'ble Judge Keenan of the U.S. Court in his order dated 12.5.1986, has failed to constitute a Special Court or Tribunal for the trial of this case in order to ensure speedy justice to the victims. It would have been prominently justified to constitute this Court itself to deal exclusively with this suit holding a day to day trial and to transfer all other business to another Court.
- (xxi) That the claim put forward by the plaintiff is inadequate looking at the gravity of the disaster which has caused death of thousands of innocent people, maimed lacs of others, uprooted and destroyed thousands of families, caused serious physiological disorder, mental agony and pathological disturbance to lacs of people reducing their work-capacity caused severe environmental pollution and serious anxiety for the future generations. Leaving besides all other claim, even at the rate of Rs. 1 lac as damage to each living claimant who number above 5 lacs, the amount would come to more than Rs. 5000 crores.

It is, therefore, prayed that the application be allowed in the interest of public justice and the applicants be allowed to (sic) participants in the proceedings.

Bhopal

Dated : 27.11.86.

1. Zahreeli Gas Kand Sangharsh Morcha.
 2. Jana Sawasthya Kendra.
- Interveners/applicants.