

ITEM NO.105

COURT NO.3

SECTION IX

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

Civil Appeal No(s). 10192/2010

JANHIT MANCH & ANR.

Appellant(s)

VERSUS

STATE OF MAHARASHTRA & ORS.

Respondent(s)

(with appln. (s) for impleadment and impleadment)

WITH

SLP(C) No. 21875/2008

(With Interim Relief and Office Report)

C.A. No. 10193/2010

(With Office Report)

C.A. No. 10194/2010

(With Interim Relief and Office Report)

C.A. No. 6312/2012

(With Interim Relief and Office Report)

Date : 31/01/2017 These matters were was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE J. CHELAMESWAR

HON'BLE MR. JUSTICE ABHAY MANOHAR SAPRE

For Appellant(s) Appellant-in-person (Not present)

Mr. Colin Gonsalves, Sr. Adv.

Mr. Guntan Singh, Adv.

Ms. Jyoti Mendiratta, Adv.

Mr. Nishant Ramakantrao Katneshwarkar, Adv.

Mr. Satyajit A. Desai, Adv.

Ms. Anagha S. Desai, Adv.

Mr. Anuj Shah, Adv.

Ms. B. Vijayalakshmi Menon, Adv.

Mrs V. D. Khanna, Adv.

For Respondent(s) Mr. E. C. Agrawala, Adv.

Mr. Sanjay Kharde,Adv.
Mr. Chandan Ramamurthi,Adv.

Mr. Nishant Ramakantrao Katneshwarkar,Adv.

Mr. Atul Yeshwant Chitale,Sr.Adv.
Mrs. Suchitra Atul Chitale,Adv.
Mr. Tanvi Kakar,Adv.
Ms. Akansha Ghose,Adv.

Ms. Abha R. Sharma,Adv.
M/s. Lawyer S Knit & Co,Adv.
Ms. N. Annapoorani,Adv.

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

SLP(C) No. 21875/2008 and C.A. No. 10193/2010

Leave granted in SLP(C)No.21875/2008.

Both the appeals are allowed in part, in terms of the signed order.

Pending application(s), if any, stand disposed of.

C.A. No. 10192/2010, C.A. No. 10194/2010 and C.A. No. 6312/2012

List these matters on 18th July, 2017.

[O.P. SHARMA]
AR-CUM-PS

(One signed order is placed on the file)

[RAJINDER KAUR]
COURT MASTER

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. _____ OF 2017
(Arising out of SLP(C)No. 21875/2008)

NATIONAL ALLIANCE OF PEOPLES MOVEMENT

APPELLANT(S)

VERSUS

STATE OF MAHARASHTRA & ORS.

RESPONDENT(S)

WITH

CIVIL APPEAL NO.10193 OF 2010

STATE OF MAHARASHTRA

APPELLANT(S)

VERSUS

JANHIT MANCH & ORS.

RESPONDENT(S)

O R D E R

These two matters are interconnected. The petitioner(s) in the SLP(C)No.21875/2008 in an unregistered body claiming to be an association representing the interests of slum dwellers in Mumbai. The appellant in Civil Appeal No.10193/2010 is the State of Maharashtra.

Leave granted in SLP(C)No.21875/2008.

Aggrieved by an observation in the impugned judgment dated 20.11.2006 made by a Division Bench of the Bombay High Court, the above matters are brought to this court. The subject matter of the

dispute of the above mentioned judgment of the Bombay High Court is the legality of certain regulation framed under Maharashtra Regional Town Planning Act. The challenge was repelled by the High Court by the above mentioned judgment.

Certain benefits were conferred on to the slum dwellers by Maharashtra Slum Areas (Improvement Clearance and Redevelopment Act, 1971 (for short "the Act"). Admittedly, the Act contemplates the benefit to be given to those people falling under the category of slum dwellers within the meaning of the Act who have been living in the slums prior to a particular cut-off date. The cut-off date, as it existed on the date of the judgment under appeal was 1.1.1995. We are informed that subsequently the Maharashtra Legislature by Act IX of 2014 amended the cut-off date to be 1st January, 2000. However, in the impugned judgment without there being any proper pleading or issue before the High court, the High Court made an observation:

"....Yet considering the cut off date as 1.1.1995 which shall not be extended further and bearing in mind the object behind the Slum Rehabilitation Scheme for those residing in slums or protected structures before 1.1.1995, we have rejected the challenge under Articles 14 and 21."

It is capable of giving an impression that the cut off date as it existed on the date of the judgment under appeal should not be extended. Aggrieved by the said observation these appeals are brought before this Court.

Apart from that, such an observation could restrict the legislature from making appropriate law fixing the cut-off date, if the legislature deems it appropriate. Subject to the constitutionality of such legislation, if made, the authority of the legislature could not be pre-empted. As we have already indicated that the Maharashtra did, in fact, subsequently fixed a different cut-off date.

The slum dwellers are represented by the appellant in Civil Appeal arising out of SLP(C)No.21875/2008 and the State of Maharashtra as appellant in Civil Appeal No.10193/2010 and Brihan Mumbai Municipal Corporation (BMC) and the Slum Rehabilitation Authority are representing as respondents in both these appeals. Unanimously all are of the opinion that the observations was really not called for as it was not germane to the issue in the matter before the High Court.

In the circumstances, we deem it appropriate to expunge the above extracted observations from the judgment under appeal.

The appeals are accordingly partly allowed as indicated above.

.....J.
(J. CHELAMESWAR)

.....J.
(ABHAY MANOHAR SAPRE)

