

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

CIVIL APPEAL NO. 558 OF 2017

**Maharashtra Chamber of Housing Industry
through Chief Manager Finance Mr. Chandra
Prakash Goyal & Ors. ...Appellants**

Versus

**The State of Maharashtra
through Secretary
Urban Development Department
& Ors. ...Respondents**

O R D E R

1. In this civil appeal, Maharashtra Chamber of Housing Industry and others have questioned the judgment and order dated 3.9.2014 by the High Court of Judicature at Bombay passed by the Full Bench in W.P.No.9872 of 2010. The issue before the Full Bench was with regard to interpretation of Section 3(1)(b) of the Urban Land (Ceiling & Regulation) Repeal Act, 1999.

2. When the interlocutory applications are listed for hearing learned senior counsel on both the sides made a request to dispose of the main appeal itself in view of the developments which have taken place during the pendency of this appeal.

3. The Urban Land (Ceiling and Regulation) Act, 1976

(hereinafter referred to as the Principal Act) was enacted by the Parliament in the year 1976 with the object of prevention of concentration of urban properties in the hands of a few persons and to ensure equitable distribution/utilization of urban vacant lands. The respondent-State of Maharashtra enforced the said Act in nine agglomerations of the State. The Principal Act provided for a ceiling on the holding of vacant lands in urban agglomerations. When the Principal Act was enforced, the possession of surplus vacant lands was taken by the concerned authority by following the procedure. In 1986, the State Government issued a circular dated 22nd August, 1986 and decided to exempt certain surplus vacant lands from the provisions of Chapter III of the said Act and adopted the practice of granting exemptions under Section 20 of the Act, where the vacant lands were to be utilized for specified purposes. Under specified guidelines, the exemptions under Section 20 were granted for various purposes and the exemption holder was obliged to implement the terms and conditions of the exemption order.

4. The Principal Act came to be repealed by the Urban Land (Ceiling & Regulations) Repeal Act, 1999. The repealing Act, however, enabled the different State Legislatures to adopt and implement the repeal from different dates. The Maharashtra State Legislature adopted the Repeal Act with effect from 28th

November, 2007. Section 3 of the Repeal Act provided that the repeal of the Principal Act shall not affect the vacant lands which had already been vested under Section 10(3) of the Principal Act, of which possession had been taken over by the State Government or by the Competent Authority, before coming into force of the Repeal Act. It also provided that the repeal of the Principal Act shall not affect the validity of any order granting the exemption under sub-section (1) of Section 20 or any action taken thereunder, notwithstanding any judgment of any court to the contrary.

5. The provisions of the Repeal Act were the subject matter of challenge in various writ petitions before the Bombay High Court and same resulted in conflicting judgments. Ultimately, the position of law was clarified by the High Court of Judicature at Bombay by Full Bench decision, vide impugned judgment dated 23rd June, 2014. In the aforesaid judgment, the Full Bench has opined that the validity of exemption order granted under the Principal Act is saved in every regard, so as to hold the same valid for all the purposes. The Full Bench has also opined that Section 3(1)(b) of the Repeal Act does not expressly bar or take away the rights and liabilities under the exemption order. Thus it is held that repeal of the Principal Act, would not affect the rights, privileges, obligation or liability, acquired,

accrued, or incurred under the Principal Act qua Section 20(1) of the exemption order.

6. During the pendency of this appeal, it appears, a calling attention was raised before the State, regarding the multi-fold difficulties being faced by the exemption holders. In view of the same the State of Maharashtra has constituted a Committee vide Government Resolution dated 16.6.2017 under the Chairmanship of Hon'ble Shri B.N. Srikrishna, retired Judge of this Court. The said resolution formulated the terms of reference to the said Committee. The following were the terms of reference to the Committee:

(a) In the background of pending appeal before this Hon'ble Court, to explore the possibility of imposing one time premium for completion of schemes under Section 20 of the Principal Act.

(b) To consider the Government Resolution dated November 23, 2007 and suggest the measures to be taken with regard to the lands exempted from ULC Act for agricultural and industrial purposes.

(c) To suggest the measures to be taken for redevelopment of the schemes under Section 20 already constructed.

7. The above said Committee headed by Hon'ble Justice B.N. Srikrishna, after issuing public notice and by considering responses discussed the modalities of taking forward the situation in a manner consistent with the public benefit to be achieved and in the light of the present ground realities, submitted its report on 9th August, 2018. In the Report the

Committee has opined that the objective of the Principal Act could be achieved by granting permission for development in the exempted lands upon charging appropriate premium to develop which should be utilized for meeting with the objective of the Principal Act. A copy of the Report is placed on record.

8. Learned senior counsel Mr. Shekhar Naphade for the appellants has submitted that the Report of the Committee was placed before the Cabinet of the Maharashtra State and the Cabinet has already approved the said Report but further steps are not being taken because of the pendency of the appeal before this Court. Learned counsel has made a request to dispose of the matter in view of the recommendations made by the Committee constituted by the State Government. It is submitted that in view of the development which has taken place during the pendency of the appeal, the appellants are not pressing for adjudication of the question of law which arises for consideration in the appeal filed by the appellants.

9. Learned Additional Solicitor General Sri Atmaram Nadkarni, appearing for the respondent- State of Maharashtra has submitted that they are prepared to implement the recommendations made, in the Report dated 9th August, 2018, by the committee headed by Hon'ble Justice B.N. Srikrishna.

Learned counsel also made a request to dispose of the matter by permitting the State of Maharashtra to prepare a scheme for implementation of recommendations made in the Report of the Committee.

10. In view of the submissions made by the learned counsel on both sides we deem it appropriate to dispose of this appeal, permitting the respondent-State to implement the recommendations made in the Report dated 9th August, 2018. Every effort should be made to resolve the present situation of deadlock, at the earliest. We make it clear that if any of the categories of exemption is not covered in the Report referred to, it is open to such exemption holders to make representation to the Government and we hope and trust that if such representations are made, the same will be considered keeping in mind the recommendations made in the Report dated 9th August, 2018. The civil appeal is disposed of with the directions and observations as indicated above, with no orders as to cost. All other pending interlocutory applications stand disposed of.

.....J.
[S. Abdul Nazeer]

.....J.
[R. Subhash Reddy]

New Delhi,
02 July , 2019.

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

I.A. No. 19706 of 2019

AND

I.A No. 92357 of 2019 and I.A. No. 36275 of 2017

IN

Civil Appeal No(s). 558/2017

MAHARASHTRA CHAMBER OF HOUSING INDUSTRY
THROUGH CHIEF MANAGER FINANCE MR. CHANDRA
PRAKASH GOYAL & ORS.

Appellant(s)

VERSUS

THE STATE OF MAHARASHTRA THROUGH
SECRETARY URBAN DEVELOPMENT
DEPARTMENT & ORS.

Respondent(s)

O R D E R

I.A. No. 19706 of 2019

Application for directions is rejected.

Appeal is disposed of, vide separate order.

I.A No. 92357 of 2019 and I.A. No. 36275 of 2017

Taken on Board.

Learned counsel seeks permission of the Court to withdraw the applications.

Applications are dismissed as withdrawn by granting a liberty to pursue any other remedy available in law including representation to the Government.

.....J.
[S. ABDUL NAZEER]

.....J.
[R. SUBHASH REDDY]

New Delhi.
July 2, 2019.

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). 558/2017

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SECRETARY URBAN DEVELOPMENT
DEPARTMENT & ORS.

Respondent(s)

(IA No. 19706/2019 - CLARIFICATION/DIRECTION
IA No. 15916/2019 - PERMISSION TO FILE ADDITIONAL
DOCUMENTS/FACTS/ANNEXURES)

Date : 02-07-2019 This Matter was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE S. ABDUL NAZEER
HON'BLE MR. JUSTICE R. SUBHASH REDDY

For Appellant(s) Mr. Shekhar Naphade, Sr. Adv.
Mr. Anirudh Joshi, Adv.
Mr. Mahesh Agarwal, Adv.
Mr. Ankur Saigal, Adv.
Mr. Shubham Kulshrestha, Adv.
Mr. Ajitesh Soni, Adv.
Mr. E. C. Agrawala, AOR

For Respondent(s) Mr. Atmaram N.S. Nadkarni, ASG
Mr. Sanjay Singhvi, Sr. Adv.
Mr. V. Giri, Sr. Adv.
Mr. Suhasim Sen, Adv.
Mr. Salvador Santosh Rebello, Adv.
Mr. Sriram Srinivasan, Adv.
Mr. Raj Bahadur, AOR
Mr. Aniruddha P. Mayee, AOR
Mr. Pukhrambam Ramesh Kumar, AOR
Mr. Nishant Ramakantrao Katneshwarkar, AOR
Ms. Shally Bhasin, Adv.
Mr. Vaibhav Niti, Adv.
Ms. Deepa M. Kulkarni, Adv.
Mr. Anoop K., Adv.

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

We have heard learned counsel for both the parties.

I.A. No. 19706 of 2019

Application for directions is rejected.

Appeal is disposed of, vide separate order.

I.A No. 92357 of 2019 and I.A. No. 36275 of 2017

Taken on Board.

Learned counsel seeks permission of the Court to withdraw the applications.

Applications are dismissed as withdrawn by granting a liberty to pursue any other remedy available in law including representation to the Government.

CIVIL APPEAL NO. 558 OF 2017

Appeal is disposed of in terms of the signed order.

Pending application, if any, stands disposed of.

(POOJA CHOPRA)
COURT MASTER

(RAJINDER KAUR)
BRANCH OFFICER

(Two signed orders are placed on the file)