



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

**Civil Appeal Nos. 7784-7787 of 2019**  
**(Arising out of S.L.P. (C) Nos.19206-19209 of 2017)**

**Kantabai Vasant Ahir & Ors. .... Appellant(s)**

***versus***

**Slum Rehabilitation Authority & Ors.  
.... Respondent (s)**

**J U D G M E N T**

**L. NAGESWARA RAO, J.**

**1.** In exercise of the power under Section 3C of the Maharashtra Slums Areas (Improvement, Clearance and Re-development) Act, 1971 (hereinafter referred to as “the Act”), Respondent No.1 declared 5168.50 sq. mts. in Survey Nos. 27 and 28 (Part) at Ramwadi Wadgoan Sheri, Pune as Slum Rehabilitation Area by an Order dated 24.05.2006. The Slum Clearance Order under Section 3D of the Act was passed in respect of the aforementioned land on 01.09.2009. The above orders were subject matter of challenge before the Maharashtra Slum Areas (IC & R)

Tribunal, Mumbai in Appeal Nos.24 and 25 of 2014. The Appeals were partly allowed by the Tribunal. The aforementioned orders dated 24.05.2006 and 01.09.2009 were set aside only in respect of 1045.50 sq. mts. out of 5168.50 sq. mts. The order of the Tribunal was challenged by Respondent Nos. 1 and 2 in the High Court by filing a Writ Petition. The owner of the land, Respondent No.3 also filed a Writ Petition in the High Court questioning the legality of the order of the Tribunal. The High Court allowed both the Writ Petitions and set aside the order of the Tribunal. The High Court further declared that the slum rehabilitation area declaration and the slum clearance order would apply to the entire area of 5168.50 sq. mts. Dissatisfied with the judgment of the High Court, the Appellants are before us.

**2.** Respondent No. 3 is the owner of the land in Survey Nos.27, 28 and 29 admeasuring 12,381 sq. mts. at Wadgaon Sheri, Pune. An area of 4123 sq. mts. in Survey Nos. 27 and 28 was declared as a “Slum” under Section 4(1) of the Slum Rehabilitation Act, 1971 on 10.11.1983. Pursuant to the recommendation made by Afzalpurkar

Committee to establish an independent authority for rehabilitation of slum dwellers, the Act was amended incorporating Chapter I-A by Act 4 of 1996.

**3.** Respondent No.3 filed RCS No.365 of 2000 seeking eviction of Appellant No.1's husband. Initially, Respondent No.3 averred in the suit that the Appellants were required to be evicted after permission was granted by the competent authority since the area occupied by Appellants was declared as a slum area. Respondent No.3 filed an Application for amendment of the plaint in which it was stated that the permission of the competent authority to initiate eviction proceedings against the Appellants was not required as the area under occupation of the Appellants was not a slum area. The Application for Amendment was allowed by the Small Causes Court, Pune by an order dated 06.02.2006.

**4.** On 24.05.2006, Respondent No.1 passed an order declaring 5168.50 sq. mts. in Survey Nos.27 and 28 (Part) at Wadgaon Sheri (Ramwadi), Pune as a slum rehabilitation area. It was mentioned in the said order that 4123 sq. mts.

falling within Survey Nos.27 and 28 (Part) was already declared as a slum area on 10.11.1983. By adding 1045.50 sq. mts. of undeclared area with 4123 sq. mts. of declared area, the area of the Scheme was shown as 5168.50 sq. mts. Thereafter, an order was passed by Respondent No.2 under Section 3D read with Section 12(4) of the Act on 01.09.2009 declaring 5168.50 sq. mts. in Survey Nos. 27 and 28 (Part) as Slum Clearance Area. The Appellants filed C.S.No.97 of 2013 before the City Civil Court, Pune, for declaration that the property in dispute was not a slum area and that Respondent No.1 lacked jurisdiction to declare the area as a slum. Respondent No.1 appeared before the court and produced the Orders dated 24.05.2006 and 01.09.2009 passed under Section 3C and 3D of the Act. Thereafter, the Appellants filed Appeal Nos. 24 and 25 of 2014 questioning the Orders dated 24.05.2006 and 01.09.2009. As stated above, the Tribunal partially allowed the Appeals and set aside the Orders dated 24.05.2006 and 01.09.2009 to the extent of 1045.50 sq. mts. of land.

**5.** The Appellants were found by the Tribunal to be occupants of tenements in the disputed area and therefore,

are persons aggrieved as contemplated under Section 3C(2) of the Act. The Tribunal concluded that the Appellants were not given sufficient opportunity as provided in Section 36 of the Act before the order dated 24.05.2006 was passed. By holding that 1045.50 sq. mts. was not a declared area, the Tribunal set aside the Orders dated 24.05.2006 and 01.09.2009.

**6.** The High Court reversed the Order of the Tribunal after a detailed consideration of the provisions of the Act and the facts of the case. The High Court held that a declaration of an area as a slum area under Section 4(1) of the Act is not required before proceedings are initiated under Chapter I-A of the Act. The High Court declared that the Slum Rehabilitation Authority was discharging legislative functions while exercising powers under Sections 3A to 3D of the Act. The High Court was of the further opinion that no pre-decisional hearing prior to the issuance of declaration by the SRA under Section 3C of the Act is necessary. Moreover, the Appellants were not entitled to hearing as they were neither owners nor long term lessees. The scope of Section 12 of the Act as construed by the

Appellants was not accepted by the High Court. The interpretation of Section 36 by the Tribunal was not accepted by the High Court. The Special Rules and Regulations governing the Slum Rehabilitation Scheme in the present case were relied upon to conclude that encumbered area can also be declared as rehabilitation area. The plea of *mala fide* made by the Appellants was also rejected by the High Court.

**7.** Mr. Guru Krishna Kumar, learned Senior Counsel appearing for the Appellants submitted that the Act applies only to slum areas. He further contended that the Order dated 24.05.2006 passed under Section 3C of the Act and the Order dated 01.09.2009 passed under Section 3D of the Act are unsustainable. He submitted that a notification under Section 4 of the Act is a prerequisite for initiation of steps under Chapter I-A. As there is no notification under Section 4 in respect of 1045.50 sq. mts., the entire proceedings under Section 3C and 3D are vitiated. He argued that the High Court committed an error in relying upon the judgments of the High Court of Judicature at

Bombay which pertained to Development Control Regulations.

**8.** Mr. Shyam Divan, learned Senior Counsel for Respondent Nos.1 and 2 defended the judgment of the High Court. He argued that the judgment of the High Court is in accord with the provisions of the Act. Chapter I-A, Sections 4, 12 and 36 have been correctly interpreted by the High Court. He also relied upon the Special Rules and Regulations for Slum Rehabilitation Scheme applicable to Pune and Pimpri Chinchwad Municipal Corporation/ City Area to submit that even encumbered lands can be part of the Slum Rehabilitation Area. He further submitted that the Tribunal committed an error in holding that Appellants were entitled for a notice before the order under Section 3C was passed. He contended that there is no necessity of a notification of an area as a slum area under Section 4 before a declaration is made under Section 3C of the Act.

**9.** Mr. P.S. Patwalia, learned Senior Counsel appearing for Respondent No.3 brought to our notice that all the slum dwellers except the Appellants have shifted to transit

accommodation. The entire Scheme has been held up by the Appellants who belong to three families. He also stated that even the Appellants shall be entitled to get ownership flats after the development is completed. He further submitted that the judgment of the High Court is in the interest of the other slum dwellers who were occupying tenements in the Slum Rehabilitation Area.

**10.** It is necessary to refer to the relevant statutory provisions for a better understanding of the dispute. Section 2(ga) defines slum area as any area declared as such by the competent authority under sub-section (1) of Section 4. Slum Rehabilitation Area, Slum Rehabilitation Authority and Slum Rehabilitation Scheme are defined in Section 2 (h-b), (h-c) and (h-d). Section 4(1) which falls under Chapter II deals with declaration of slum areas as follows:

4. Declaration of slum areas

*<sup>1</sup>[(1) Where the Competent Authority is satisfied that-*

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<sup>1</sup> Sub-section (1) was substituted by Mah.23 of 1973, s. 102, Sch.II.



*(a) any area is or may be a source of danger to the health, safety or convenience of the public of that area or of its neighbourhood, by reason of the area having inadequate or no basic amenities, or being insanitary, squalid, overcrowded or otherwise; or*

*(b) the buildings in any area, used or intended to be used for human habitation are*  
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*(i) in any respect, unfit for human habitation; or*

*(ii) by reasons of dilapidation, overcrowding, faulty arrangement and design of such buildings, narrowness or faulty arrangement of streets, lack of ventilation, light or sanitation facilities or any combination of these factors, detrimental to the health, safety or convenience of the public of that area,*

*the Competent Authority may, by notification in the Official Gazette , declare such area to be a slum area. Such declaration shall also be published in such other manner (as will give due publicity to the declaration in the area) as may be prescribed.]*

<sup>2</sup>*[Explanation.- For the purpose of clause (b), the expression “buildings” shall not include,-*

*(a) cessed buildings in the island City of Mumbai as defined in clause (7) of section 2 of the Maharashtra Housing and Area Development Act, 1976, or old buildings belonging to the Corporation;*

*(b) buildings constructed with permission of the relevant authority at any point of time;*

*(c) any building in an area taken up under the Urban Renewal Scheme.]*

**11.** The relevant portion of Section 12 which is as under :

*“12. Clearance order*

*(1) As soon as may be after the Competent Authority has declared any slum area to be a clearance area, it shall make a clearance order in relation to that area, ordering the demolition of each of the buildings specified therein, and requiring each such building to be vacated within such time as may be specified in the [clearance*

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<sup>2</sup> Explanation added by Mah.11 of 2012, s. 7 (w.e.f. 19-6-2012).

*order], and shall submit the [clearance order] to the Administrator for confirmation.”*

**12.** Chapter I-A was inserted by Act 4 of 1996. Section 3A(1) provides for appointment of Slum Rehabilitation Authority for such area or areas as may be specified in the notification. Sub-section (3) of Section 3A which deals with the powers, duties and functions of the Slum Rehabilitation Authority is as under:

*“<sup>3</sup>[(3) The powers, duties and functions of the Slum Rehabilitation Authority shall be -*

*(a) to survey and review existing position regarding slum areas;*

*(b) to formulate schemes for rehabilitation of slum areas;*

*(c) to get the Slum Rehabilitation Scheme implemented;*

*(d) to do all such other acts and things as may be necessary for achieving the objects of rehabilitation of slums.]”*

**13.** The Slum Rehabilitation Authority shall prepare or amend the general slum rehabilitation scheme for the areas specified in Section 3A(1) for rehabilitation or relocation of

3 (1) The State Government, or the Slum Rehabilitation Authority concerned with the previous sanction of the State Government, shall, prepare a general Slum Rehabilitation Scheme for the areas specified under subsection (1) of section 3A, For Rehabilitation of slums and hutment colonies in such areas.

protected occupiers and other occupiers of the buildings in such areas in exercise of power conferred by Section 3B. The procedure to be followed for preparation of the Slum Rehabilitation Scheme is dealt with in Section 3B. Section 3C empowers the Chief Executive Officer to declare any area as Slum Rehabilitation Area after the publication of the Slum Rehabilitation Scheme. Section 3C(2) enables an aggrieved person to prefer an appeal against the Slum Rehabilitation Order to the Special Tribunal. Section 3D of the Act provides that on publication of the Slum Rehabilitation Scheme under Sub-section (1) of Section 3B, the provisions of the other Chapters of the Act shall apply to any area declared as a Slum Rehabilitation Area subject to the modifications mentioned therein. To the extent necessary, it is relevant to note that Chapter II stands omitted. Section 12 was substituted as follows insofar as it applies to Chapter I-A

*"(1) As soon as may be, after the Chief Executive Officer has declared any slum area to be a slum rehabilitation area, he shall make a clearance order in relation to that area, ordering*

*the demolition of each of the buildings specified therein, and requiring each such building to be vacated within such time as may be specified in the clearance order."*

**14.** Section 36 of the Act is as follows:

*36. Service of notice, etc.*

*(1) Every notice, order or direction issued under this Act shall, save as otherwise expressly provided in this Act, be served-*

*(a) by giving or tendering the notice, order or direction [or] by sending it by registered post to the person for whom it is intended; or*

*(b) if such person cannot be found, by affixing the notice, order or direction on some conspicuous part of his last known place of abode or business, or by giving or tendering the notice, order or direction to some adult member or adult servant of his family or by causing it to be affixed on some conspicuous part of the building or land, if any, to which it relates.*

*(2) Where the person on whom a notice, order or direction is to be served is minor, service upon his guardian or upon any adult member or adult servant of his family shall be deemed to be the service upon the minor.*

*(3) Every notice, order or direction, which by or under this Act is to be served as a public notice order or direction or as a notice, order or direction which is not required to be served on any individual therein specified shall, save as otherwise expressly provided, be deemed to be sufficiently served if a copy thereof is affixed in such conspicuous part of the office of the Competent Authority or in such other public place during such period, or is published in such local newspaper or in such other manner, as the Competent Authority may direct.*

**15.** Certain amendments were carried out to Chapter I-A by Act 38 of 2018. As the Orders under Section 3C and 3D were passed in 2006 and 2009 and the decisions of the

Tribunal and the High Court were prior to the amendment, we proceed to adjudicate this matter by interpreting the provisions of the Act as they stood prior to the amendment made by Act 38 of 2018.

**16.** The main contention of the Appellants is that 1045.50 sq. mts. of land was not declared as a slum area under Section 4 of the Act which is *sine qua non* for initiation for proceedings under Chapter I-A of the Act. There is no dispute that the declared area is only to an extent of 4123 sq. mts. The entire area of 5168.50 sq. mts. was declared as a Slum Rehabilitation Area under Section 3C which falls in Chapter I-A. As stated above, Section 3D provides that Chapter II has no application to orders passed under Chapter I-A. Section 4(1) of the Act is in Chapter II. Therefore, it is not necessary that an area should be notified under Section 4 as slum area before proceedings under Chapter I-A are initiated. Hence, we do not agree with the Appellants that a notification under Section 4 is a prerequisite for orders to be passed under Sections 3C and 3D of the Act.

**17.** Another submission made on behalf of the Appellants is that the Slum Clearance Order dated 01.09.2009 is vitiated as it is contrary to Section 12 of the Act. The basis for the said argument is that the clearance is made in respect 5168.50 sq. mts. which includes 1045.50 sq. mts. un-declared area. Section 12 as substituted by Section 3D of the Act enables the Chief Executive Officer to make a Clearance Order to a slum area after it has been declared to be a Slum Rehabilitation Area. The submission of Mr. Kumar, learned Senior Counsel for the Appellants is that the words “slum area” have been defined in Section 2(ga) to mean any area declared as such by the competent authority under Section 4(1). In the absence of a declaration of a slum area under Section 4(1), no action can be initiated under Section 3D of the Act. Mr. Divan, learned Senior Counsel appearing for Respondent Nos.1 and 2 submitted that the phrase “any slum area” in Section 12 is used in general parlance. He relied upon Section 2 of the Act which starts with the following “in this Act unless the context otherwise requires”. In the context of Chapter I-A of the Act, the phrase “slum area” used in Section 12(1) cannot



have the same meaning as found in Section 2(ga). The Slum Clearance Order is passed under Section 3D and Section 12(1) after an area is declared as a Slum Rehabilitation Area under Section 3C. Chapter I-A is a self-contained code dealing with Slum Rehabilitation Schemes. The words “any slum area” in Section 12 are used in generic sense. Therefore, we do not accept the submission made on behalf of the Appellants that “any slum area” in Section 12 is only that area which has been notified under Section 4(1) of the Act. Section 4 of the Act not being applicable to proceedings under Chapter I-A is a relevant factor to hold that the context warrants such interpretation.

**18.** The order dated 24.05.2006, passed under Section 3C of the Act was held to be vitiated by the Tribunal due to non-compliance of Section 36 of the Act. The manner of service of every notice, order or direction issued under the Act is provided under Section 36. A plain reading of Section 3C of the Act discloses that the declaration of a Slum Rehabilitation Area requires to be published in the official gazette. The Slum Rehabilitation Order under Section 3C shall also be given wide publicity. An appeal to the

special Tribunal, against the Slum Rehabilitation Order, can be availed by any aggrieved person. Pursuant to the publication of the Slum Rehabilitation Scheme on 28.11.2005, a survey was conducted by the Slum Rehabilitation Authority to prepare a list of eligible slum dwellers. It has been stated in the counter affidavit filed by Respondent Nos. 1 & 2 that the Appellants participated in the said survey and showed willingness to be a part of the scheme. A list of eligible slum dwellers was published on 18.04.2006 and names of the Appellants were found in the list which was published by affixing the same at a conspicuous place in the area on 12.05.2006. After the order dated 24.05.2006 was passed, the Appellants submitted objections on 26.05.2006, 21.06.2006, 20.07.2006 and 07.08.2006. Thereafter, the Appellants filed appeal No.24 of 2014 under Section 3C (2) of the Act, challenging the order dated 24.05.2006 which was partially allowed.

**19.** There is no requirement of issuance of notice prior to the declaration under Section 3C. The Tribunal committed an error in relying upon Section 36 to hold that the

appellants were entitled to a notice before order dated 24.05.2006 was passed. Section 36 only deals with the manner in which notice issued under the Act is to be served. No complaint of violation of principles of natural justice can be made by the Appellants as there is no violation of the procedure prescribed in Section 3C. That apart, the remedy resorted to by the Appellants under Section 3C(2) resulted in their favor. There is no prejudice caused to the Appellants. The complaint of the Appellants that they should have been given an opportunity before the order dated 24.05.2006 was passed cannot be entertained.

**20.** Clause (d) of the Special Rules and Regulations for Slum Rehabilitation Scheme under the jurisdiction of Slum Rehabilitation Authority for Pune and Pimpri Chinchwad area is as follows:

*“D) Definition of slum and Rehabilitation Area:*

*Where the CEO (SRA) is satisfied that any area is or may be a source of danger to the health, safety or convenience of the public of that area or of its neighbourhood, by person of the area having*

*inadequate or no basic amenities or being insanitary, squalid, overcrowded or otherwise, or the buildings in any area used or intended to be used for human habitation area in any respect until for human habitation by reasons of dilapidation, overcrowding, faulty arrangement and design of such buildings, narrowness or faulty arrangement of streets, lack of ventilation, light or sanitation facilities or any combination of these factors, detrimental to the health, safety or convenience of the public of that area is defined as Slum. This shall form the basic parameter for declaration of the rehabilitation area.*

*Further that any such area, encumbered or unencumbered, that the CEO(SRA) may require for implementation of SRS proposal, shall be declared as rehabilitation area.*

**21.** It is clear that even encumbered area shall be declared as a rehabilitation area provided the Slum Rehabilitation Authority requires the said area for implementation of the

Scheme. Admittedly, the disputed area of 1045.50 sq. mts. is adjacent to the declared area and is required for effective implementation of the Scheme. The contention of the Appellant that the declaration of 1045.50 sq. mts. under Section 3C of the Act is in colourable exercise of power is not acceptable. In view of the aforementioned findings, it is not necessary to deal with other contentions.

**22.** The Appeals are dismissed accordingly.

.....J.  
**[L. NAGESWARA RAO]**

.....J.  
**[HEMANT GUPTA]**

**New Delhi,  
October 18, 2019.**