

(2014) 06 KAR CK 0211

In the Karnataka High Court

Case No : W.P. Nos. 23662-23793 of 2014 (GM-SLUM) C/W W.P. Nos. 24073/2014, 25418-25535/2014, W.P. Nos. 24075-24117/2014, 22843-22891/2014, 22184-22191/2014, 25591-25646/2014, 25590/2014, 25674-791/2014 and 23662-23793/2014

Lakshmidevi

APPELLANT

Vs

State of Karnataka

RESPONDENT

Date of Decision : 10-06-2014

Acts Referred:

Constitution of India, 1950 — Article 19(1)(e), 21, 21-A

Citation : (2014) 3 AKR 743 : (2014) ILR 3423 : (2014) 4 KCCR 3042

Hon'ble Judges : Ashok B. Hinchigeri, J

Bench : Single Bench

Advocate : Clifton D. Rozario, Advocate and K.N. Subba Reddy and Vivek Reddy, Advocates, Vivek S. Reddy, Advocate for the Appellant; Ravivarma Kumar, Advocate General and Lakshminarayana, AGA, M.P. Srikanth, Advocate, Puthige R. Ramesh and Lakshmi S. Holla, Advocate for the Respondent

Final Decision : Disposed Off

Judgement

Ashok B. Hinchigeri, J.—The petitioners are questioning the intimation letters issued by the Assistant Executive Engineer of Karnataka Slum Development Board directing them to vacate their homes/huts in Jai Bhuvaneshwarinagar slum area. They are directed to occupy and shift to the houses constructed in Kudlu Village for the purpose of rehabilitating them.

2. Sri Vivek S. Reddy, the learned counsel appearing for the petitioners in Writ Petition Nos. 24075-24117/2014, 22184-22191/2014 and 25591-25646/2014 submits that the premises constructed at Kudlu Village are in dilapidated condition. They are unfit for human occupation. The buildings in Kudlu village have developed the cracks, plastering is peeling off, minimum quantity of cement is used and the external and internal walls are very weak. The structural engineer has given the report to the effect that it is not advisable to stay there. He has also produced the photographs to support his submission that the quality of

construction is poor. The buildings in Kudlu Village are so weak that it is not safe for the petitioners to reside there.

3. Sri Vivek Reddy submits that the newspapers have also been reporting that the quality of construction of buildings in Kudlu Village is substandard. If the petitioners are compelled to shift to such buildings, it would be violative of Article 21 of the Constitution of India. The right to life, enshrined in Article 21 means something more than mere survival or animal existence. The right to life essentially means the right to live with human dignity.

4. The learned counsel submits that the men folk living in Jai Bhuvaneshwarinagar slum area are employed gainfully in the adjoining localities. If they are forced to shift to a distant locality, they would lose their source of livelihood. He submits that the proposed shifting to Kudlu Village would also affect the school-going children. The exercise of shifting cannot be done after the commencement of academic year. He submits that the abrupt shifting would only bring about a dislocation in the lives of the slum-dwellers. It would lead to a rise in the drop-out rate from the schools. He would contend that the Kudlu Village buildings are not viable alternative at all.

5. He submits that there is no immediacy or urgency for shifting the petitioners. He submits that there is no constraint of space for the T.B. Sanitorium Hospital. The Director of the Hospital has his quarters spread over 2 acres. In that 2 acres, hundreds of slum-dwellers can be accommodated. There are no reasons whatsoever for resorting to the militant and aggressive ways by the authorities for forcibly evicting the petitioners at this stage.

6. He submits that the petitioners and/or their forefathers have been living in the slum area in question for the last 60 years. Some of them are not even put on notice. Attempting to bulldoze the petitioners' huts by the respondent authorities is extremely arbitrary.

7. Sri Clifton D' Rozario, the learned counsel appearing for the petitioners in Writ Petition Nos. 23662-23793/2014, 24073/2014 and 25418-25535/2014, 22843-22891/2014, 25590/2014 and 25674-25791/2014 submits that out of 490 families residing in the slum area in question, only 237 families have received the intimation. He submits that the 26 families have not received the notice, although their names figure in the list of slum-dwellers prepared by the Karnataka Slum Development Board.

8. He submits that the right to shelter is certainly within the sweep of Article 21 of the Constitution of India. Relying on the Apex Court's judgment in the case of Chameli Singh and others etc. Vs. State of U.P. and another, , he would contend that the protection of life guaranteed by Article 21 encompasses within its ambit the right to shelter to enjoy the meaningful right to life. The right to residence and settlement is a fundamental right under Article 19(1)(e) and it is a facet of inseparable meaningful right to life under Article 21. The right to shelter includes adequate living space, safe and decent structure, clean and decent surroundings,

sufficient light, pure air and water, electricity, sanitation and other civic amenities like roads, etc. so as to have an easy access to one's daily avocation.

9. The learned counsel also brings to my notice the Apex Court's judgment in the case of *B.D. Sharma v. Union of India and Others*, reported in 1992 Supp (3) SCC 93 for advancing his submission that the rehabilitation process should be completed atleast six months before the area is likely to be submerged. He sought to draw support from the Apex Court's judgment in the case of *N.D. Jayal and Another Vs. Union of India (UOI) and Others*, . Paragraph No. 59 of the said decision read out by him is as follows:--

59. Rehabilitation is not only about providing just food, clothes or shelter. It is also about extending support to rebuild livelihood by ensuring necessary amenities of life. Rehabilitation of the oustees is a logical corollary of Article 21. The oustees should be in a better position to lead a decent life and earn livelihood in the rehabilitated locations. Thus observed this Court in *Narmada Bachao Andolan's case (supra)*. The overarching projected benefits from the dam should not be counted as an alibi to deprive the fundamental rights of oustees. They should be rehabilitated as soon as they are uprooted. And none of them should be allowed to wait for rehabilitation. Rehabilitation should take place before six months of submergence. Such a time limit was fixed by this Court in *B.D. Sharma v. Union of India*, and this was reiterated in *Narmada*. This prior rehabilitation will create a sense of confidence among the oustees and they will be in better position to start their life by acclimatizing themselves with the new environment.

10. The learned counsel relies on this Court's decision in the case of *Smt. Satyavva Vs. Hubli Dharwad Municipal Corporation*, wherein the need for taking the steps for rehabilitating the slum-dwellers is emphasized while recognizing the need for the planned development of a city. In the said case, this Court has also underlined the need for a participatory or an inclusive approach. No purpose would be served by summarily evicting the slum-dwellers. They are to be rehabilitated. The concerned authority was directed to identify the lands for the rehabilitation of the slum-dwellers after involving the elected representatives of the people also.

11. The learned counsel submits that the rehabilitation of the petitioners has to take place in the letter and spirit of the National Rehabilitation and Re-settlement Policy, 2007. Paragraph No. 4.3.3 of Chapter IV of the said policy document prescribes a public hearing for discussing the Social Impact Assessment Report. He submits that the rehabilitation and re-settlement plan has to be prepared and implemented as per the procedure contained in Chapter VI of the said policy document.

12. Sri Rozario also relies on the Apex Court's decision in the case of *The Government of Mysore and Others Vs. J.V. Bhat and Others*, wherein the rationale behind the need to hear the concerned party before demolishing his

building is stated as follows in paragraph No. 13:

13. We must, therefore, examine the nature of functions imposed by statute and the requirements they are designed to meet in applying the tests stated above. We think that, the duty to hear those whose dwellings are to be condemned becomes imperative before deciding to demolish their particular buildings although we do not think that any quasi-judicial trial was called for. All that was necessary was to I hear objections, checked by spot inspections, where needed, before taking a decision. This would have met with the requirements of natural justice in such cases where emergent action may sometimes be very necessary. We may point out that, in cases of demolition orders, pursuant to schemes framed under the Housing Act in England, the duty to hear before making them was held by the Court to be implied. The earliest of these cases was *Cooper v. The Board of Works for Wandsworth District*. These duties are now imposed by statute (see Sections 16 and 20 of Housing Act, 1957).

13. The learned counsel also read out paragraph No. 15 from the Apex Court's judgment in the case of *The Scheduled Caste and Weaker Section Welfare Association (Regd.) and anothers Vs. State of Karnataka and others*, , while making his submission on the need for adherence to the rule of audi alteram partem. The said paragraph is extracted hereinbelow.

15. It is one of the fundamental rules of our constitutional set-up that every citizen is protected against exercise of arbitrary authority by the State or its officers. If there is power to decide and determine to the prejudice of a person, duty to act judicially is implicit in the exercise of such power and the rule of natural justice operates in areas not covered by any law validly made. What particular rule of natural justice should apply to a given case must depend to an extent on the facts and circumstances of that case, the frame work of the law under which the enquiry is held and the body of persons appointed for the purpose. It is only where there is nothing in the statue to actually prohibit the giving of an opportunity to be heard, but on the other hand, the nature of the statutory duty imposed itself necessarily implied an obligation to hear before deciding, that the audi alteram partem rule could be imported. Thus in applying the test, to the provisions of the earlier Act, the Mysore Slum Areas (Improvement and Clearance) Act, 1958, this Court held in *The Government of Mysore and Others Vs. J.V. Bhat and Others*, thus:

There can be no two opinions about the need to hear the affected persons before declaring an area to be a slum area u/s 3 or an area as a clearance area u/s 9 or before taking action u/s 10. All these difficulties will be removed if the affected persons are given an opportunity to be heard in respect of the action proposed.

14. The learned counsel read out Section 11 of the Karnataka Slum Areas (Improvement and Clearance) Act, 1973 and contended that the area in question is declared as "slum area"; what remains is to be done is only its development. Instead of improving the area, the authorities are resorting to clear the area by

evicting the slum-dwellers forcibly.

15. The object for which the said Act is enacted is to create a better accommodation and improved living conditions for the slum-dwellers. In support of his submissions, he has also relied on this Court's decision in the case of Bellam Thimmappa alias Guntige Thimmappa and Another Vs. Karnataka Slum Clearance Board and Others, .

16. The learned counsel submits that as many as 213 students residing in the slum area in question are studying in different schools and colleges in the vicinity of their residence. In this regard, he brings to my notice Annexure-P, which contains the full particulars of the students so studying. That the studies of these many children cannot be put in the doldrums because of the abrupt shifting, is the anxiety of Sri Rozario.

17. Sri Rozario has also relied on the Division Bench's judgment of the Orissa High Court in the case of Mrs. Rutuparna Mohanty, Managing Trustee, Maa Ghar Foundation and Others Vs. State of Orissa and Others, . The relevant portions of paragraph Nos. 17 and 18 are extracted hereinbelow.

17..... The CMC shall also take steps for protection of child rights and prohibition of child labour as envisaged in Section 503 of the Act which says that the Corporation shall be an active partner in the implementation of the International Convention on Child Rights and shall ensure that every child has access to a sufficient range of educational and vocational training and shall discourage child labour through the implementation of penalties and fines and also keeping in view Article 21-A of the Constitution to provide free education to the children up to High School level and effective monitoring and evaluation of the same is required. The second point is also answered accordingly in favour of the petitioners/slum-dwellers and their children.

18..... Therefore, the State Government and the CMC shall include the evictees from the aforesaid slum as identified slum-dwellers for the purpose of resettlement and rehabilitation.

18. Prof. Ravivarma Kumar, the learned Advocate General appearing for the State Government submits that the steps are being taken for shifting the slum-dwellers from the areas in question to the Kudlu Village in compliance with the Division Bench's judgment in the case of B. Krishna Bhat Vs. State of Karnataka and Others, . The Division Bench, inter alia , has issued the following directions in the said case:--

State Government should clear the slums, wherever the slums have come up, as early as possible by shifting and rehabilitating the slum-dwellers to any other place. The State Government shall not contemplate to have slum colony inside the hospital premises. The State Government is directed to restrain itself from establishing the slum colony inside the hospital premises.

19. It is in compliance with the afore-extracted direction that the petitioners are

being called upon to vacate their places in Jaibhuvaneshwarinagar and shift to the apartments in Kudlu Village, which are constructed for the purpose of rehabilitating them.

20. He submits that the public interest litigant, Sri B. Krishna Bhat has initiated the contempt proceedings in CCC (Civil) Nos. 2305-2328/2013. In the said contempt proceedings, the Government has given an undertaking to comply with the afore-directions within three months. The State Government filed I.A. No. 1/14 in C.C.C.(civil) Nos. 2305-2328/2013 seeking four more months time from 3.3.2014 for complying with the order. The Division Bench, by its order, dated 4.3.2014 extended the time for complying with the directions till the end of May 2014.

21. The learned Advocate General submits that the Division Bench's judgment in B. Krishna Bhat's case (supra) has attained the finality. The petitioners have not taken any steps either to seek the review of the order or to challenge it before the Hon'ble Supreme Court. As it is a judgment in rem, it binds everyone, including the petitioners.

22. The learned Advocate General submits that as many as 1056 apartments are constructed. Out of them, 544 are already allotted to the slum-dwellers and have already been occupied by them. He submits that, as per the earlier understanding, the slum-dwellers were required to pay Rs. 20,000/- and get the ownership rights of the apartments. Now they are not even required to pay Rs. 20,000/-, as the contribution of Rs. 20,000/- for each slum-dweller family is being met by the Bruhath Bengaluru Mahanagara Palike.

23. He submits that the photographs being produced by the petitioners were taken one or two months ago. Much water has flown since then. The buildings in Kudlu Village are fully ready for occupation. The water supply and electricity connections are also ensured. He submits that the distance between the slum area in question and the Kudlu Village is about 15 Kms. He submits that, as the Kudlu Village is also close to the Electronic City, the residents of Kudlu Village should have no difficulty in securing the employment. In a pro-active spirit, he submits that, if this Court issues any directions for further improvement of the facilities, the Government would be anxious to give them.

24. The learned Advocate General submits that the 23 similarly placed persons had filed Writ Petition No. 10541/2013 and 10635-638/2013 c/w Writ Petition Nos. 12883-12900/2013. This Court, by its order, dated 15.7.2013 disposed them off with the following order:--

7. If that be the position, the prayer at No. 1 also would not arise for consideration inasmuch as by the allotment letters at Annexures-A1 to AS, the petitioners have been benefited with the allotment at Koodlu Village wherein the Slum Clearance Board has constructed the house for them and it would be in the interest of the petitioners to occupy the said premises. At this juncture, it is not in dispute that since the interim orders granted by this Court had already been

vacated and the petitioners have also been evicted from the hospital premises. Hence, Respondent No. 2 in any event shall ensure that the houses allotted to the petitioners under the allotment letters at Annexures-A1 to A5 are available for occupation and the petitioners shall be put in possession of the said houses within a time frame.

In terms of the above, the petitions stand disposed of.

25. He submits that the non-observance of the principles of natural justice would be a good ground for the interference of this Court, but only when the parties are in a position to show that they have suffered the prejudice on account of non-observing the principles of natural justice.

26. In the instant case, even assuming that the petitioners are not given the show cause notice, it makes no difference, because they can have no tenable resistance to the impugned eviction intimations. They are being evicted pursuant to the judgment of the Division Bench. In support of his submissions, he relies on the Apex Court's judgment in the case of Juwarsingh and Others Vs. State of Madhya Pradesh, . The relevant paragraphs of the said decision are extracted hereinbelow:--

17. Linked with this question is the question whether the failure to observe natural justice does at all matter if the observance of natural justice would have made no difference, the admitted or indisputable facts speaking for themselves. Where on the admitted or indisputable facts only one conclusion is possible and under the law only one penalty is permissible, the Court may not issue its writ to compel the observance of natural justice, not because it approves the non observance of natural justice but because Courts do not issue futile writs. But it will be a pernicious principle to apply in other situations where conclusions are controversial, however, slightly, and penalties are discretionary.

24. In our view the principles of natural justice know of no exclusionary rule dependent on whether it would have made any difference if natural justice had been observed. The non-observance of natural justice is itself prejudice to any man and proof of prejudice independently of proof of denial of natural justice is unnecessary. It will comes from a person who has denied justice that the person who has been denied justice is not prejudiced. As we said earlier where on the admitted or indisputable facts only one conclusion is possible and under the law only one penalty is permissible, the Court may not issue its writ to compel the observance of natural justice, not because it is not necessary to observe natural justice but because Courts do not issue futile writs. We do not agree with the contrary view taken by the Delhi High Court in the judgment under appeal.

27. Sri M.P. Srikanth, the learned counsel appearing for the respondent-Karnataka Slum Development Board and its officers submits that 20 clear days notice is given to the petitioners to vacate and move to the new premises. He submits that the serving of the notice itself was made very difficult. When the officers of the said Board went to serve the notice, some of the slum-dwellers

refused to receive the notice and created a volatile situation, as a result of which the officials of the said Board had to take the assistance and protection of the police. He submits that on the failure of some of the slum-dwellers to receive the notice, the notices came to be displayed in some conspicuous part of the locality.

28. Sri Srikanth submits that the Slum Development Board has already taken up the issue with BWSSB for the supply of water in tankers, should there be any shortfall in the supply of water. He submits that the same is in addition to the borewells and main water supply lines.

29. Sri Puttige R. Ramesh, the learned counsel appearing for the impleading applicant (I.A. No. 3/14 in W.P. Nos. 22843-22891/2014 and I.A. No. 2/14 in W.P. Nos. 22184-22191/2014) submits that the impleading applicant, Sri B. Krishna Bhat is a public spirited citizen. He filed the public interest writ petition No. 18702/1998 seeking the directions to improve the working of Government Hospitals in Bangalore. The Division Bench, by its order, dated 13.11.2000 dismissed the writ petition. The said Sri Krishna Bhat took up the matter to the Hon"ble Supreme Court in Civil Appeal No. 550/2002. The Hon"ble Supreme Court set aside the Division Bench's judgment and remanded the matter. The Hon"ble Supreme Court expressed its considered view that the High Court would be justified in issuing appropriate directions in the matter of maintaining the hospitals. It also observed that the High Court is at liberty to pass appropriate order with regard to the clearance of slums in the hospital premises. It is on the remand of the matter that the Division Bench, by its judgment, dated 25.9.2008 allowed the petition by issuing six necessary directions. One such direction issued to the State Government was for clearing the slums by shifting and rehabilitating the slum-dwellers to any other place. The State Government was specifically directed not to contemplate or establish the slum colony inside the Government Hospital premises.

30. Sri Ramesh submits that even in the wake of clear directions issued by the Division Bench, the Government and the Slum Development Board were showing inaction in the matter. Their inaction therefore drove the impleading applicant to file CCC (Civil) Nos. 2305-2328/2013. In the said contempt proceedings, the Government undertook to have the slums cleared by shifting the slum-dwellers to an alternative place. At the Government's instance, the time was extended for complying with the directions issued by the Division Bench.

31. The learned counsel submits that, as the whole exercise of clearing the slum with the avowed objective of improving the hygienic conditions in and around the hospital premises is based on the initiative taken by the impleading applicant, he is a proper and necessary party for the adjudication of the issues, which may fall for consideration in this case.

32. Without prejudice to this contention, Sri Ramesh submits that the impleading applicant is atleast a "proper party," if not a "necessary party." Relying on the Apex Court's judgment in the case of Udit Narain Singh Malpaharia Vs.

Additional Member, Board of Revenue, Bihar, , he submits that a "necessary party" is one without whom no order can be made effectively; a "proper party" is one in whose absence an effective order can be made, but whose presence is necessary for a complete and final decision on the question involved in the proceedings.

33. Sri Ramesh submits that in 1998, when the public interest litigation was filed by the impleading applicant, there were 168 families in the slum area in question. He submits that approximately there were about 700 people belonging to the said 168 families. He submits that, as the impugned notices are issued by the respondent authorities in compliance with the Division Bench's judgment, the Single Judge's interference is not warranted. He submits that wide publicity was indeed given to the measures taken to rehabilitate the slum-dwellers. He submits that the subject has been hitting the headlines in the newspapers. He further submits that the print and electronic media were also giving wide coverage to the ongoing moves. He would therefore contend that the slum-dwellers have had the constructive or implied notice of the proceedings in question.

34. The learned Advocate General has fairly indicated the State Government's no objection to the allowing of the impleading applications.

35. In the course of rejoinder, Sri K.N. Subba Reddy, the learned counsel appearing for the petitioners in Writ Petition Nos. 24075-117/2014, 22184-191/14 and 25591-25646/14 submits that the structures in Kudlu Village are so very weak that they may collapse any moment. He submits that there are about 1000 children residing with their elders in the slum area in question. They are extremely poor. He requests that the existing slum area may be retained and developed instead of forcing the slum-dwellers to the buildings in Kudlu Village, as there are no water supply and electricity supply facilities.

36. Sri Clifton D" Rozario, the learned counsel for the petitioners in writ petition Nos. 23662-23793/2014, 24073/2014 and 25418-25535/2014, 22843-22891/2014, 25590/2014 and 25674-25791/2014, in the course of his rejoinder submits that there are no schools and colleges in the vicinity of Kudlu Village. The school-going children have to traverse the distance of 3 1/2 Kms. He submits that there are not enough public transportation facilities. There are only two buses to and from Kudlu Village to the mainstream place -one in the morning and one in the evening. He submits that the respondents are not justified in shifting the slum-dwellers hurriedly, only because the Division Bench has passed the judgment in B. Krishna Bhat's case (supra). He submits that the Division Bench has not directed that the slum-dwellers be shifted hurriedly and that too to a place where there are no basic amenities.

37. Relying on the Apex Court's judgment in the case of Narinder Chand Hem Raj and Others Vs. Lt. Governor, Administrator, Union Territory, Himachal Pradesh and Others, , he submits that no court can give a direction to a Government to

refrain from enforcing the provision of law. Taking shelter under the Division Bench's judgment, the respondents cannot unilaterally identify a place, create semblance of infrastructure development and force the slum-dwellers to go to an alternative place.

38. To buttress his submission that the slum-dwellers cannot be uprooted without being rehabilitated, the learned counsel relies on the Division Bench's judgment of the Delhi High Court in the case of Sudama Singh and Others Vs. Government of Delhi and Another . The relevant paragraphs of the said decision are extracted hereinbelow:--

26. The housing problem can be considered to be universal, since, to date, no country has yet managed to completely meet this basic human need. Adequate housing serves as the crucible for human well - being and development, bringing together elements related to ecology, sustained and sustainable development. It also serves as the basic unit of human settlements and as an Indicator of the duality of life of a city or a country's inhabitants. It reflects, among other things, the mobilization of resources and the distribution of space, as well as varied social and organizational aspects of the relationship between Government and society. Unfortunately, in spite of its importance, there exists an enormous housing deficit throughout the world. According to the United Nations, more than one billion people are living in precarious shelter, conditions including those who are homeless.

44. In the last four decades, on account of pressure on agricultural land and lack of employment opportunities in the rural areas, a large number of people were forced to migrate to large cities like Delhi. However, in cities, their slender means as well as lack of access to legitimate housing, compelled them to live in existing jhuggi clusters or even to create a new one. They turned to big cities like Delhi only because of the huge employment opportunities here but then they are forced to live in jhuggies because there is no place other than that within their means. These jhuggi clusters constitute a major chunk of the total population of the city. Most of these persons living in the slums earn their livelihood as daily wage labourers, selling vegetables and other household items, some of them are rickshaw pullers and only few of them are employed as regular workers in industrial units in the vicinity while women work as domestic maid-servants in nearby houses. Their children also are either employed as child labour in the city; a few fortunate among them go to the municipal schools in the vicinity. The support service provided by these persons (whom the Master Plan describes as "city service personnel") are indispensable to any affluent or even middle class household. The city would simply come to halt without the labour provided by these people. Considerations of fairness require special concern where these settled slum dwellers face threat of being uprooted. Even though their jhuggi clusters may be required to be legally removed for public projects, but the consequences can be just as devastating when they are uprooted from their decades long settled position. What very often is overlooked is that when a

family living in a jhuggi is forcibly evicted, each member loses a "bundle" of rights - the right to livelihood, to shelter, to health, to education, to access to civic amenities and public transport and above all, the right to live with dignity. In this regard, comments of Professor Bundy on the large number of forced evictions in South Africa, may be noted.

52..... In these circumstances, removal of their jhuggies without ensuring their relocation would amount to gross violation of their Fundamental Rights.....

54.....The Court directed the respondents to engage meaningfully with the residents on the timeframe of the relocation. The Court further directed the respondents to consult with the affected residents on each individual relocation specifically. Specifically, the engagement was to take place one week before the specified date for relocation. The Court went as far as specifying exhaustive. The respondents were to engage with the residents on:

? ascertaining the names, details and relevant personal circumstances of those affected by each relocation;

? the exact time, manner and conditions under which the relocation would be conducted;

? the precise TRUs to be allocated to those relocated;

? the provision of transport for those to be relocated and for their possessions;

? the provision of transport facilities to those affected from the temporary accommodation to amenities such as schools, health facilities and places of work; and the prospect of the subsequent allocation of permanent housing to those relocated to temporary accommodation, including information on their current position on the housing waiting list and the provision of assistance to those relocated in the completion of housing subsidy application forms (para 7(11)).

55. We find no difficulty in the context of the present case, and in the light of the jurisprudence developed by our Supreme Court and the High Court in the cases referred to earlier, to require the respondents to engage meaningfully with those who are sought to be evicted. It must be remembered that the MPD - 2021 clearly identifies the relocation of slum dwellers as one of the priorities for the government. Spaces have been earmarked for housing of the economically weaker sections. The government will be failing in its statutory and constitutional obligation if it fails to identify spaces equipped infrastructurally with the civic amenities that can ensure a decent living to those being relocated prior to initiating the moves for eviction.

57. This Court would like to emphasise that the context of the MPD, jhuggi dwellers are not to be treated as "secondary" citizens. They are entitled to no less an access to basic survival needs as any other citizen. It is the State's constitutional and statutory obligation to ensure that if the jhuggi dweller is forcibly evicted and relocated, such jhuggi dweller is not worse off. The relocation

has to be a meaningful exercise consistent with the rights to life, livelihood and dignity of such jhuggi dweller.

60. The further concern is the lack of basic amenities at the relocated site. It is not uncommon that in the garb of evicting slums and "beautifying" the city, the State agencies in fact end up creating more slums the only difference is that this time it is away from the gaze of the city dwellers. The relocated sites are invariably 30-40 kilometers away from a city centre. The situation in these relocated sites, for instance in Narela and Bhawana, are deplorable. The lack of basic amenities like drinking water, water for bathing and washing, sanitation, lack of access to affordable public transport, lack of schools and health care sectors, compound the problem for a jhuggi dweller at the relocated site. The places of their livelihood invariably continue to be located within the city. Naturally, therefore, their lives are worse off after forced eviction.

39. The submissions of the learned counsel have received my thoughtful consideration. The first question that falls for my consideration is whether the impleading application filed by Sri B. Krishna Bhat is required to be allowed?

40. Admittedly it is the said Sri Krishna Bhat, who initiated the public interest litigation (P.I.L. for short) in Writ Petition No. 18702/1998. On its dismissal by the Division Bench, he took up the matter to the Hon''ble Supreme Court, which set aside the Division Bench judgment. On the remand of the matter, he prosecuted the said P.I.L. On the remanded matter culminating in the issuance of the directions for clearing the slums in the hospital premises, he has been seeking its enforcement. He filed C.C.C. (Civil) Nos. 2305-2328/2013 complaining of disobedience of the Division Bench's judgment. Thus, as the whole exercise is initiated on the basis of his petition and the orders passed thereon, he is entitled to be heard in these matters. Even when the petitioners have not sought any relief against the impleading applicant, it cannot be said that he has no litigational competence in the matter.

41. As per the subtle distinction between a "necessary party" and "proper party, brought out by the Hon''ble Supreme Court in Udit Narain's case (supra), the impleading applicant qualifies to be atleast a proper party. I.A. No. 3/14 in W.P. Nos. 22843-22891/2014 and I.A. No. 2/14 in W.P. Nos. 22184-22191/2014 are allowed. The petitioners' side is directed to amend the cause title arraigning the applicant as the additional respondent.

42. The second question that falls for my consideration is whether the impugned notices/intimation letters are liable to be quashed?

43. The impugned notices are issued in compliance with the directions issued by the Division Bench's judgment in Krishna Bhat's case (supra). The respondent-authorities cannot be held to be at fault for acting in aid of the Court.

44. For the reasons best known to themselves, the petitioners have not taken any steps for seeking the review of the Division Bench's judgment. They have

not challenged it by filing an appeal before the Hon'ble Supreme Court. The grievance that the Division Bench has passed the judgment without hearing the slum-dwellers cannot be permitted to be ventilated before the Single Judge. The Single Judge cannot and should not examine the tenability of the Division Bench's judgment. It is not open to the Single Judge to pass any order, which would have the effect of watering down the Division Bench's judgment.

45. Further, another Single Judge following the Division Bench's judgment in Krishna Bhat's case (supra) has negated the challenge raised to the similar notices by the similarly placed 23 slum-dwellers in Writ Petition Nos. 10541/2013 and 10635-638/2013 c/w Writ Petition Nos. 12883-12900/2013 disposed of on 15.7.2013. It is also worthwhile to notice that the said order of the Single Judge has attained the finality.

46. It is trite that the decisions of a co-ordinate bench of equal strength are also to be followed and not to be differed from. If an authority is required for this proposition, it can be found in Apex Court's judgment in the case of Lily Thomas, Vs. Union of India and Others, . The relevant portion of the said decision is extracted below:--

56..... The rule of law of following the practice of the binding nature of the larger Benches and not taking different views by the Benches of coordinated jurisdiction of equal strength has to be followed and practised.....

47. If I take a view different from the one taken by the co-ordinate Bench, it would give rise to an anomalous situation. The judicial propriety, discipline and decorum require that the challenge to the impugned notices be negated following the decision in Writ Petition No. 10541/2013 and 10635-638/2013 c/w Writ Petition Nos. 12883-12900/2013.

48. Even if the show cause notices were to be issued to the petitioners as to why they should not be evicted from the slum area in question, the outcome of the said exercise would have been the same, as the authorities are proceeding only to comply with the judgment of the Division Bench in Krishna Bhat's case (supra). As held by the Apex Court in S.L. Kapoor's case (supra), when on the admitted or indisputable facts only one conclusion is possible, the court may not issue its writ to compel the observance of natural justice, not because it approves the non-observance of natural justice, but because the courts do not issue the futile writs.

49. It is also profitable to refer to the Apex Court's judgment in the case of Escorts Farms Ltd. previously known as Escorts Farms Ltd., Previously known as Escorts Farms (Ramgarh) Ltd. Vs. The Commissioner, Kumaon Division, Nainital, U.P. and Others, wherein, it is held that the rules of natural justice are to be followed for doing substantial justice and not for completing the mere ritual and without possibility of any change in the decision of the case on merit.

50. The theory of reasonable opportunity and the principles of natural justice

have been evolved to uphold the rule of law and to assist the individual to vindicate his just rights. They are neither the incantations to be invoked nor the rites to be performed on all and sundry occasions. In saying so, I am fortified by the Apex Court's judgment in the case of Managing Director, ECIL, Hyderabad, Vs. Karunakar, etc. etc., .

51. Thus and for the foregoing reasons the second question is liable to be answered against the petitioners notwithstanding the heart-touching and brain-storming arguments advanced on behalf of the petitioners.

52. The third question that falls for my consideration is what relief can be given to the petitioners. So long as the Division Bench's judgment in Krishna Bhat's case (supra) remains undisturbed, the question of permitting the petitioners to reside in the slum area in question does not arise at all. Similarly, the prayer of the petitioners that the existing slum be developed also cannot be acceded to. The Division Bench has unequivocally directed the State Government to restrain itself from establishing the slum colony inside the hospital premises. The State Government is forbidden from developing the slum colony inside the hospital premises.

53. But all this does not mean that the petitioning slum-dwellers and their things are to be thrown out overnight. They are entitled to a little breathing time. The respondents are not in a position to demonstrate from their records that the individual notices came to be served on all the slum-dwellers. The case of the respondents is that many of the slum-dwellers have resisted receiving the notice. If that be so, the respondent authorities ought to have resorted to - (a) affixing the notice in some conspicuous place in and around the slum area by drawing the mahazar (b) by tom-toming and (c) by taking out the public notice in the newspapers. None of these modes are utilized by the respondent authorities.

54. The mahazar drawn by the Slum Development Board speaks of the refusal of many slum-dwellers to receive the notice, but there is no mentioning in the said mahazar that the notice is affixed on any place in or near the slum area in question. The statement that the slum-dwellers are aware of the impugned proceedings on account of the wide publicity given in the print and electronic media cannot be taken on its face-value and can not be believed on the ipse dixit of the respondent authorities. Further, the time given to the petitioners for vacating varies from one week to three weeks. The petitioners need to pack their things, make alternative arrangements in and around Kudlu Village for their employment and for the admission of their wards to the schools and colleges.

55. Considering all these aspects of the matter, I deem it necessary to grant two more weeks' time to the petitioners to vacate their homes/huts in the slum area in question and shift to the Kudlu Village. The rigours of shifting to an entirely new locality are to be softened by granting them little more time.

56. In the result, I dispose of these writ petitions as follows:--

- i) The challenge to the impugned intimation letters/notices is negated.
- ii) Two weeks" time is granted from today to the petitioners to vacate their residences in the slum area in question and shift to the premises allotted to them in Kudlu Village.
- iii) The submission of the learned Advocate General that the ownership right would be conferred upon the slum-dwellers in respect of the allotted apartments without taking any amount from them is placed on record.
- iv) For the benefit of those slum-dwellers, who have not yet approached this Court, the Slum Development Board shall consider affixing the public notice in and around the slum area in question and also taking out the public notices in the leading dailies giving them atleast two weeks" time to vacate.
- v) It is possible that there are some teething problems in the rehabilitation project. It should therefore be open to the petitioners to represent to the Government and the Slum Development Board for the redressal of their grievances.
- vi) The Government and the Slum Development Board shall consider setting up the Grievance Cells in Kudlu Village for attending to the problems of the rehabilitated persons. The problems of the rehabilitated slum-dwellers are required to be attended to sympathetically, pro-actively and without any loss of time.
- vii) The Government shall consider opening the schools, colleges and hospitals in Kudlu Village, if they are already not established. The Government shall also consider increasing the frequency of the city buses to and from Kudlu Village.
- viii) If any of the petitioners" names are left out in the list of the occupants of the slum area, it is open to the petitioners to give appropriate representation to the Government and/or the Slum Development Board and it is for the concerned authorities to consider them in accordance with law.

57. No order as to costs.