
(2007) 09 OHC CK 0028
In the Orissa High Court

Manmohan Lal

APPELLANT

Vs

State of Orissa and Others

RESPONDENT

Date of Decision : 05-09-2007

Acts Referred:

Urban Land (Ceiling and Regulation) Act, 1976 — Section 10, 11, 12, 13, 14
Urban Land (Ceiling and Regulation) Repeal Act, 1999 — Section 3, 4

Citation : (2007) CLT 387 Supp : (2007) 2 OLR 713 : (2007) OLR 387 Supp

Hon'ble Judges : Sanju Panda, J;I.M. Quddusi, J

Bench : Division Bench

Judgement

I.M. Quddusi, J.—By means of this writ petition, the petitioner claims the benefit of the Urban Land (Ceiling and Regulation) Repeal Act, 1999 which was adopted vide resolution passed on 5.4.2002 in the State Legislature and published in the Extraordinary issue of Orissa Gazette bearing No. 574 dated 27.4.2002.

2. The brief facts of the case are that the petitioner is the owner of land measuring Ac. 1.606 appertaining to Plot Nos. 568, 557, 564, 567, 800 in Khata Nos. 193, 73,103, 556 of Mouza Gandarpur and Sutahat within the Cuttack Urban Agglomeration. Under the Urban Land Ceiling Act, 1976 (herein after referred to as "U.L.C.Act") he submitted his return in respect of the said land, which was registered as U.L.C.Case No. 44 of 1976. The competent authority allowed the Ceiling Unit measuring Ac. 0.0504 decimals and the petitioner was directed to surrender the rest of the area and the notification u/s 10(1) of the U.L.C. Act was published on 28.5.1982 inviting objection to such notification.

3. On 14.7.82 one Subas Mohan Lal filed objection before the competent authority to the effect that he has a share in the property. In spite of pendency of such objection, final statement u/s 9 of the U.L.C. Act was issued on 22.5.1982. Also thereafter notification u/s 10(3) was made vide Notification No. 669 dated 27.7.1982.

4. Since the petition of Subas Mohan Lal was not disposed of, he filed Urban Land Ceiling Appeal No. 60 of 1990 and by order dated 17.5.1991 the appellate

authority quashed the orders of competent authority and remanded the matter for disposal of the claim of Subas Mohan Lal first and thereafter to take steps as per law. All orders passed by competent authority subsequent to 17.7.1982 were quashed.

The competent authority vide his order dated 28.6.1999 allowed the claim of Subas Mohan Lal and as such two Units of Ceiling limit were allowed; one to Subas Mohan Lal and the other to Manmohan Lal. The two ceiling limits were calculated to be Ac. 1.029 decimals and this was allowed towards retention area and an area of Ac. 0.577 decimals were determined towards surrender area.

In view of the fresh calculation the case was relegated to the stage of Section 10(2) of the Act.

5. On 29.8.2001 the competent authority directed for issuance of revised notification u/s 10(3) of the Act. Under the said notification u/s 10(3) of the Act, the competent authority is empowered to declare that the excess vacant land as per schedule given therewith shall be deemed to have been acquired by the State Government with effect from the date specified therein and upon such publication such land shall be deemed to have been vested absolutely in the State Government free from all encumbrance with effect from the date specified in the notification. But no such notification appears to have been issued. In the meantime, the Urban Land (Ceiling and Regulation) Repeal Act, 1999 came into force with effect from 22nd March, 1999.

Sections 3 and 4 of the said Act read as under:

3. Savings - (1) The repeal of the principal Act shall not affect-

(a) the vesting of any vacant land under Sub-section (3) of Section 10, possession of which has been taken over by the State Government or any person duly authorised by the State Government in this behalf or by the competent authority;

(b) the validity of any order granting exemption under Subsection (1) of Section 20 or any action taken thereunder, notwithstanding any judgment of any Court to the contrary;

(c) any payment made to the State Government as a condition for granting exemption under Sub-section (1) of Section 20.

(2) Where -

(a) any land is deemed to have vested in the State Government under Sub-section (3) of Section 10 of the principal Act, but possession of which has not been taken over by the State Government or any person duly authorised by the State Government in this behalf or by the competent authority; and

(b) any amount has been paid by the State Government with respect to such land,

then, such land shall not be restored unless the amount paid, if any, has been refunded to the State Government.

4. Abatement of legal proceedings - All proceedings relating to any order made or purported to be made under the principal Act pending immediately before the commencement of this Act, before any Court, tribunal or other authority shall abate;

Provided that this section shall not apply to the proceedings relating to Sections 11,12, 13 and 14 of the principal Act in so far as such proceedings are relatable to the land, possession of which has been taken over by the State Government or any person duly authorised by the State Government in this behalf or by the competent authority.

The aforesaid Act was adopted by the State Government, as mentioned above, with effect from 5.4.2002. In the said resolution by the State Government adopting the aforesaid Act of 1999, it was declared that no compensation should be paid for land, possession of which has not been taken over by the State Government after vesting u/s 10(3) of the U.L.C. Act and the legal processes initiated under the said Act will also be closed.

6. During course of hearing this Court directed the Additional Government Advocate to file additional affidavit mentioning therein specifically the date of taking over possession of the ceiling surplus land in question after the order dated 28.6.1999 was passed by the competent authority declaring excess land to the extent of Ac. 0.577 decimals and also to file copy of the documents in support thereof. The learned Additional Government Advocate filed an Additional Affidavit of Officer-in-charge, Urban Land Ceiling, Cuttack on behalf of Opp. Party No. 2 i.e. Collector, Cuttack in which it has been categorically stated that the concerned Revenue Inspector had prepared the Statement and Map only and no further action could be taken thereafter and possession of the extra land i.e. Ac. 0.577 decimals was not taken over subsequently after the order of competent authority dated 28.6.99.

7. In view of the above statement made in the additional affidavit, the proceedings against the petitioner under U.L.C. Act stands abated and the land in question stands vested in the petitioner. The Opp. Parties are directed to act accordingly.

The writ petition is disposed of with the above observation.

Sanju Panda, J.

8. I agree.