
(1992) 02 AHC CK 0018

In the Allahabad High Court

Case No : Civil Misc. Writ Petition No. 2663 of 1988

Smt. Aruna Khanna

APPELLANT

Vs

State of U.P. and Another

RESPONDENT

Date of Decision : 04-02-1992

Acts Referred:

Uttar Pradesh Slum Areas (Improvement and Clearance) Act, 1962 — Section 3

Citation : (1992) 2 AWC 1224

Hon'ble Judges : D.S. Sinha, J;A.N. Verma, J

Bench : Division Bench

Final Decision : Allowed

Judgement

A.N. Verma, J.—In the case of Rudra Prasad Bajpayee v. Commissioner of Allahabad Division 1988 UP LBEC 178 this Court has held that though Section 3 of the U.P. Slum areas (Improvement and Clearance) Act, 1962 does not expressly require giving of "notice to the persons likely to be affected by the proposed action under the said Act, the principles of natural justice require that an opportunity of being heard should be given before the issue of notification declaring a particular area as slum area. It was, however, clarified that the notice need not be given "individually to the persons or inhabitants of the area concerned. A general notice, it was observed, would suffice.

2. The Petitioner relies on the above pronouncement and contends that no notice of any sort was issued or served on the Petitioner, either whether individually or generally. These averments have been made in paragraphs 7 and 12 of the writ petition

3. The stand taken by the Respondent No. 2, the competent authority under the aforesaid Act, namely, the Kanpur Development Authority, in its counter affidavit is that there was no need to issue any notice to the Petitioner prior to the declaration of the area as slum area under the Act. Such a plea is not wholly unsustainable in view of the law laid down by this Court in this case of Rudra

Prasad Bajpayee (Supra).

4. Learned Counsel for the Respondent No. 2, however, invited our attention to paragraph 5 of the counter affidavit in which it is stated that the fact that the notification u/s 3 having been issued in the extra ordinary gazette dated 2-5-1981 had been duly published in the two local newspapers consecutively for three days as required under the Rules.

5. The above notice, for whatever it is worth, is of no avail to the Respondents inasmuch as the same was given after the publication of the notification. The requirement on the other hand, as ruled by this Court is that the notification should be given prior to the issue of the declaration u/s 3 of the Act.

6. We may, however, reiterate that the notice contemplated u/s 3 of the Act is not required to be served individually on the persons affected thereby. As observed in Rudra Prasad Bajpayee's case (Supra) it would be sufficient compliance if the person likely to be affected are given collective notice by way of publication in the newspaper or otherwise. That in our opinion, would be sufficient compliance of the Rules of the natural justice and the duty to act justly and fairly enjoined by our Constitution on public bodies in the discharge of their public functions and duties,

7. In the result, the petition succeeds and is allowed. The notification issued u/s 3 of the U.P. Slum Areas (Improvement and Clearance) Act, 1962 in so far as it concerns the Petitioner's property is quashed. It will, however, be open to Respondents to take fresh actions in regard to the Petitioner's land in accordance with law.