

Maharao Sahib Shri Bhim Singhji and Others

Vs

Union of India and Others

Writ Petition No. 350 of 1977 etc.

(CJI Y.V. Chandrachud, P.N. Bhagwati JJ)

01.07.1985

JUDGMENT

CHANDRACHUD, C.J. -

1. A large group of persons holding vacant lands in different urban agglomerations in the country had filed writ petitions in this Court, challenging the validity of some of the key provisions of the Urban Land (Ceiling and Regulation) Act, 33 of 1976. Those writ petitions were disposed of on November 13, 1980 by a Constitution Bench consisting of Krishna Iyer, J., Tulzapurkar, J., A.P. Sen, J., and the two of us. [Maharao Sahib Shri Bhim Singhji v. Union of India, (1981) 1 SCC 166]. Each of our three learned brethren delivered a full judgment. We delivered a short Judgment and stated that fuller reasons will follow later.

2. We had discussed with one another the several points arising in the writ petitions. But we were running, against time, not an unusual predicament since Krishna Iyer J. was due to retire on November 15, 1980. Tulzapurkar, J. differed from all of us, holding that the impugned Act is not protected under Article 31-C or under Article 31-B since, it did not further the Directive principles contained in clauses (b) and (c) of Article 39 of the Constitution. The learned Judge held further that since Chapter III of the Act, comprising the substratum of the very scheme of the Act was invalid, the entire Act had to be struck down as unconstitutional. A.P. Sen, J. agreed with us on all the points except that according to him, sub-sections (1), (2) and (3) of Section 23 and the opening words of Section 23(4) of the Act are unconstitutional, not being protected by Articles 31-B and 31-C of the Constitution. Krishna Iyer, J. concurred with us in holding that the entire Act is valid save and except Section 27(1), insofar as that section imposes restrictions on the transfer of any urban or urbanisable land with a building or a portion of such building, which is within the ceiling area. We took the view that the impugned Act was intended to and did in fact implement or achieve the purpose of clauses (b) and (c) of Article 39 and that, the vice from which a few provisions of the Act could be shown to suffer, would not justify a contrary conclusion.

3. We are free to confess that if the full text of the judgment of Krishna Iyer, J. were available to us sufficiently in advance, we would not have delivered a separate order stating that fuller reasons will follow later. The Judgment had to be pronounced on November 13, 1980 since, Krishna Iyer, J. was due to retire two days later. As we have stated earlier, all of us had together discussed the various points arising in these cases and, we knew the conclusions to which we had respectively come. But, it is not possible to express agreement with the line of reasoning of a judgment, without examining the judgment carefully. That opportunity became available to us later. We have gone through Krishna Iyer, J.'s Judgment closely and find that there is nothing that we can usefully add to it.

4. The only further order which we propose to pass now is to say that we agree fully with the reasons given by Krishna Iyer, J. in his judgment reported in *Bhim Singhji v. Union of India* [Maharao Sahib Shri Bhim Singhji v. Union of India, (1981) 1 SCC 166].

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