

Shivgonda Anna Patil

Vs

State of Maharashtra

Civil Appeal No. 8253 of 1995

(G.T. Nanavati, S.N. Phukan JJ)

09.03.1999

JUDGMENT

G.T. Nanavati, J.

1. This appeal arises out of the order passed by the High Court of judicature at Bombay in Writ Petition No. 994/93. The appellants had challenged the order dated 20th September, 1979 passed by the Deputy Collector and Competent Authority, Urban Land Ceiling, Sangli and also the constitutional validity of certain provisions of the Urban Land (Ceiling and Regulation) Act on the ground that they are violative of Article 31-A(1) of the Constitution. The High Court summarily dismissed the Writ Petition.

2. The appellants' case in the Writ Petition was that their father died in the year 1965 and on his death, land bearing Survey No. 228/3 was inherited by them. It was mutated in the name of the eldest son on 25.2.1966. On coming into force of the Urban Land (Ceiling and Regulation) Act, 1976, the appellant No. 1 filed a statement under Section 6 of the Act on 4.9.1976. Thereafter, on 20.9.1979, the Competent Authority declared 6,100 sq.m. as vacant and excess land. A notification to that effect and vesting of it in Government under Section 10(3) was issued on 5.5.1983. Notice under Section 10(5) for taking possession of the excess land was issued on 31.3.1986. The appellant No. 1 on coming to know of it approached the Deputy Collector and the competent authority with a request to re-open the proceedings on the ground that while determining excess land, the competent authority had not taken into consideration share of his sister in the joint family property. The competent authority refused to re-open the case and therefore the appellants were required to file Writ Petition.

3. The challenge to the constitutional validity of the relevant provisions of the Urban Land (Ceiling and Regulation) Act has to be rejected as its validity has already been upheld by this Court. (See *Maharao Saheb Shri Bhim Singhji etc. v. UOI and others*, AIR 1981 SC 234 and AIR 1985 SC 1650). Moreover, the contention raised by the appellants that as no provision has been made in the Urban Land (Ceiling and Regulation) Act regarding payment of compensation at market rate for acquisition of agricultural land, it is violative of the second proviso to Article 31-A(1) of the Constitution, is thoroughly misconceived as what is taken over by the State is the excess vacant land. The challenge to the order passed by the competent authority is also without substance. No appeal or revision application was filed against it and therefore it had become final and binding on the appellants. After the determination of the excess land, a notification under Section 10(1) of the Act was issued and the excess land vested in the State Government under Section 10(3) of the Act. Ten years thereafter, the appellants had filed the Writ Petition challenging the said order. The High Court was, therefore, justified in dismissing the Writ Petition summarily. It is also worth noting that

even though the sister of the appellants knew about the proceedings, she had not filed any objection at any stage before the land vested in the State Government. She filed a Writ Petition in 1986 and it was dismissed.

4. As we do not find any substance in this appeal, it is dismissed.

No order as to costs.