

**\* THE HON'BLE THE CHIEF JUSTICE UJJAL BHUYAN**  
**AND**  
**THE HON'BLE SRI JUSTICE N. TUKARAMJI**

**+ WRIT APPEAL No.152 of 2018**

% 09.02.2023

# Between:

State of T.S. & 2 others

Appellants

VERSUS

Dr. Neelam Krishna & 23 others

Respondents

! Counsel for Appellants : Mr. T.Srikanth Reddy,  
learned Government Pleader  
for Revenue

^ Counsel for the respondents : Mr. Vedula Venkata  
Ramana, learned Senior  
Counsel for respondent  
No.1

: Mr. K.Ravinder Reddy,  
learned Standing Counsel  
for GHMC for respondent  
No.2

: Mr. A.Prabhakar Rao,  
learned counsel for  
respondent Nos.3 to 24

**AND**

**WRIT PETITION No.40781 of 2016**

# Between:

Dr. Neelam Krishna

Petitioner

VERSUS

The State of Telangana & 3 others

Respondents

! Counsel for Petitioner : Mr. Vedula Venkata Ramana,  
learned Senior Counsel

^ Counsel for the respondents: Mr. T.Srikanth Reddy,  
learned Government Pleader  
for Revenue for respondent  
Nos.1 to 3

: Mr. K.Ravinder Reddy,  
learned Standing Counsel  
for GHMC for respondent  
No.4

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? Cases referred

<sup>1</sup> AIR 1975 SC 596

**THE HON'BLE THE CHIEF JUSTICE UJJAL BHUYAN**

**AND**

**THE HON'BLE SRI JUSTICE N. TUKARAMJI**

**WRIT APPEAL No.152 of 2018**

**And**

**WRIT PETITION No.40781 of 2016**

**COMMON JUDGMENT:** *(Per the Hon'ble the Chief Justice Ujjal Bhuyan)*

This order will dispose of Writ Appeal No.152 of 2018 and Writ Petition No.40781 of 2016.

2. We have heard Mr. T.Srikanth Reddy, learned Government Pleader for Revenue representing the appellants in W.A.No.152 of 2018 and the official respondents in W.P.No.40781 of 2016. Also heard Mr. Vedula Venkata Ramana, learned Senior Counsel for respondent No.1/writ petitioner in W.A.No.152 of 2018 and the petitioner in W.P.No.40781 of 2016. We have heard Mr. K.Ravinder Reddy, learned Standing Counsel for Greater Hyderabad Municipal Corporation (GHMC) for respondent No.2 in W.A.No.152 of

2018 and respondent No.4 in W.P.No.40781 of 2016 and Mr. A.Prabhakar Rao, learned counsel for respondent Nos.3 to 24 in W.A.No.152 of 2018.

3. Writ Appeal No.152 of 2018 is directed against the judgment and order dated 16.10.2017 passed by the learned Single Judge allowing Writ Petition No.17154 of 2011 filed by the 1<sup>st</sup> respondent as the writ petitioner.

4. 1<sup>st</sup> respondent as the writ petitioner had filed W.P.No.17154 of 2011 assailing the notification dated 28.05.2011 issued under Section 3(1) of the Andhra Pradesh Slum Improvement (Acquisition of Land) Act, 1956 (briefly referred to hereinafter as 'the Slum Act') declaring land admeasuring 2678 square meters with constructed buildings thereon in Survey No.216 corresponding to T.S.No.1 Block-L, Ward No.109, Circle-18 at Bansilalpet, Musheerabad Mandal, Bakaram Village in the district of Hyderabad (briefly referred to hereinafter as 'the subject land') as a slum area.

5. Before we advert to the notification dated 28.05.2011, we may mention that according to the 1<sup>st</sup> respondent, he is one of the co-owners of the subject land. There were 42 tenants in the constructed buildings. 1<sup>st</sup> respondent had initiated eviction proceedings against them under the Andhra Pradesh Buildings (Lease, Rent and Eviction) Control Act, 1960 and had obtained orders of eviction. Out of the 42 tenants, 4 were evicted by due process and 16 others had voluntarily vacated the premises. Remaining tenants had earlier instituted W.P.No.18951 of 2010 before this Court seeking a direction to the appellants for acquiring the subject land under the Slum Act for the purpose of allotting the same to them. W.P.No.18951 of 2010 was disposed of by this Court *vide* order dated 18.04.2011 directing the District Collector of Hyderabad and GHMC to take a decision whether to acquire the subject land or not. It was thereafter that the impugned notification dated 28.05.2011 was issued and published in the Andhra Pradesh Gazette, which 1<sup>st</sup> respondent says he came to know on

06.06.2011 when it was published in the newspapers. This came to be challenged in W.P.No.17154 of 2011. During pendency of the writ petition, appellants issued notice dated 31.10.2011 under Section 3(2) of the Slum Act. After calling for objections and hearing the same, Collector of Hyderabad District passed an order dated 31.10.2016 rejecting the objections raised by the petitioner and upholding the notice dated 31.10.2011 issued under Section 3(2) of the Slum Act. This came to be challenged in Writ Petition No.40781 of 2016.

6. Writ Petition No.17154 of 2011 was contested by the appellants by filing counter affidavit. Appellant No.3 in the counter affidavit stated that persons living in the subject land declared as 'slum area' belong to economically poorer section. Condition of the subject land was unhygienic, there being no civic amenities and proper sanitation facilities. Residents of the area were suffering from diarrhea and other diseases. Report was called for whereafter notification under Section 3(1) of the Slum Act was issued. GHMC also filed

counter affidavit contending that impugned notification was issued in accordance with law.

7. Learned Single Judge considered the provisions of the Slum Act, more particularly Section 3 thereof and after comparing the said provisions with the Mysore Slum Areas (Improvement and Clearance) Act, 1958 (briefly referred to hereinafter as 'the Mysore Act'), he came to the conclusion that Section 3(1) of the Slum Act and Section 3(1) of the Mysore Act are in *pari materia*. Referring to the decision of the Supreme Court in **Government of Mysore v. J.V.Bhat**<sup>1</sup>, learned Single Judge came to the conclusion that notice and hearing are required to be given before issuance of a notification under Sub-Section (1) of Section 3 of the Slum Act. Learned Single Judge from the record found that no prior notice was issued to the 1<sup>st</sup> respondent and he was not heard before the impugned notification was issued. In the circumstances, learned Single Judge set aside the impugned notification dated 28.05.2011 further clarifying that the

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<sup>1</sup> AIR 1975 SC 596

subsequent notice under Sub-Section (2) of Section 3 would be of no legal consequence since the very foundation of such notice did not subsist. That apart, learned Single Judge directed the appellants, rather injuncted the appellants, from interfering with the proprietary rights of the 1<sup>st</sup> respondent over the subject land.

8. In the hearing held on 03.02.2023, we had taken a *prima facie* view that learned Single Judge was not justified in setting aside the notification dated 28.05.2011 and had observed that the matter may be remanded back to the learned Single Judge for re-consideration and to be heard along with W.P.No.40781 of 2016.

9. Learned Senior Counsel for the 1<sup>st</sup> respondent/writ petitioner submits that though the statute is silent as regards notice and hearing, declaration of a land as a 'slum area' entails adverse civil consequences. When a decision of an administrative authority or a *quasi-judicial* authority results in civil consequences upon an affected party,



principles of natural justice are required to be followed. Insofar the Slum Act is concerned, there is no statutory exclusion of the principles of natural justice. Therefore, Supreme Court in an identical situation in **J.V.Bhat** (supra 1) has held that before declaring a land as a slum area, the affected parties are required to be put on notice and heard. This is what learned Single Judge has directed. As regards the subsequent notice issued under Section 3(2) of the Slum Act is concerned, the same would not be of any legal consequence since the declaration of the subject land as slum area has been set at naught by the learned Single Judge.

10. On the other hand, Mr. T.Srikanth Reddy, learned Government Pleader for Revenue appearing for the appellants submits that there is no requirement of notice and hearing in Sub-Section (1) of Section 3 of the Slum Act. Notice and hearing is deferred to a stage when Sub-Section (2) of Section 3 comes into play. It is only then that a person can be said to be aggrieved because that is the stage when the land is sought to be acquired. Prior to that stage, title and

possession of the person interested in the land declared as slum area is not disturbed. He submits that since Writ Petition No.40781 of 2016 is pending, the course of action suggested by this Court in the order dated 03.02.2023 may be followed and both the writ petitions may be heard together.

11. Mr. K.Ravinder Reddy, learned Standing Counsel for GHMC has supported the contentions advanced by the learned Government Pleader.

12. On the other hand, Mr. A.Prabhakar Rao, learned counsel for respondent Nos.3 to 24 in Writ Appeal No.152 of 2018 submits that this Court should protect the rights of the slum dwellers. The Slum Act is a beneficial piece of legislation and therefore the benefit of such a legislation should be made available to the slum dwellers.

13. Submissions made by learned counsel for the parties have received the due consideration of the Court.

14. Before we proceed to examine the impugned notification dated 28.05.2011, it would be apposite to advert to the relevant provisions of the Slum Act. Preamble to the Slum Act says that it is an act to provide for the acquisition of lands declared as slum areas in the State of Andhra Pradesh. There are number of slum areas in almost all towns of the State which are a source of danger to public health and sanitation. Under the existing laws, it has not been possible to provide for the basic needs of sewerage, water-supply and road and side-drains in these slums areas without causing excessive financial strain on the owners of the lands affected. To obviate such difficulty, it was found expedient first to acquire the lands in those areas and thereafter to undertake execution of work designed to improve those areas.

15. As per Section 2(f), 'slum area' has been defined to mean any area declared to be a slum area under Sub-Section (1) of Section 3. Section 3 deals with power of the Government to acquire land. As per Sub-Section (1), where the Government is satisfied that any area is or may be a

source of danger to the public health, safety or convenience of its neighbourhood by the reason of such area being low-lying, insanitary, squalid or otherwise, it may by notification in the Gazette declare such area to be a slum area. Sub-Section (2) which follows Sub-Section (1) deals with a situation of acquisition of the land or a portion thereof declared as a slum area. It says that where the Government is satisfied that it is necessary to acquire any land in a slum area for the purpose of clearing or improving the area, it may acquire the land by publishing the same in the Gazette a notice to the effect that it has decided to acquire the land in pursuance of Sub-Section (2) of Section 3. As per the proviso to Sub-Section (2), before publishing such notice the Government shall call upon the owner or any other person who, in the opinion of the Government, is interested in such land to show cause why it should not be acquired and after considering the cause shown by any person interested in the land, the Government may pass such orders as it may deem fit and proper. The Explanation below the proviso clarifies that cause shown by

the person interested would be both in respect of Sub-Section (1) as well as Sub-Section (2). In other words, while cause is being shown to a notice issued under Sub-Section (2) of Section 3, the person interested may also object to declaration of the land as a slum area under Sub-Section (1) of Section 3. Sub-Section (3) says that once the notice is published in the Gazette, the land shall vest absolutely in the Government free from all encumbrances. In terms of Sub-Section (4), the Government may authorize any authority or officer to exercise all or any of the powers to be exercised under Section 3.

16. Objective of the Slum Act is to acquire the land declared as a slum area for development of the same so as to improve the living conditions of the people residing in such area; besides improving public health. Declaration of the land as a slum area under Section 3(1) is not an end in itself. It is the first step towards acquisition of such land. Therefore declaration of a piece of land as slum area has a definite connotation. In view of the consequences which may follow, it is necessary that the person interested would have to be put

on notice and heard before the land is declared as a slum area. As such the opportunity of hearing provided in the proviso to Sub-Section (2) has to be read into at the stage of Sub-Section (1) of Section 3 of the Slum Act.

16.1. Other provisions of the Slum Act may not have much relevance to the present dispute and therefore are not adverted to.

17. In **J.V.Bhat** (supra 1), Supreme Court was considering validity of three notifications issued under the Mysore Act besides the *vires* of Sections 3, 9, 12 and 16 of the said Act. One of the notifications challenged was under Section 3 of the Mysore Act dated 17.11.1960 declaring the land in question as a slum area. In the above context, Supreme Court observed that a declaration made under Section 3 has far-reaching consequences. Once an area is declared as a slum area, the owners of every building therein would have to apply for registration of their buildings. No owner of a property in the area can erect any new building or

make any addition to or alteration in any existing building without the previous permission which may be subject to such restrictions or conditions as may be imposed by the competent authority. Besides, the buildings may be demolished followed by acquisition of land. In the circumstances, Supreme Court held that there can be no two opinions about the need to hear the affected persons before declaring an area to be a slum area under Section 3 of the Mysore Act. While upholding the constitutionality of the impugned provisions, Supreme Court set aside the three notifications as bad in law in as much as the affected persons were not given an opportunity of making representations against the notifications.

18. We have also perused provisions of Section 3 of the Mysore Act and we find that like in the Slum Act, there is no provision therein to put the affected person on notice and afford them a reasonable opportunity of hearing before declaring an area as a slum area. To that extent, learned Single Judge is right in holding that principles of natural

justice would have to be read into the provisions of Sub-Section (1) of Section 3 and further holding that for not affording reasonable opportunity of hearing to the affected person, the impugned notification cannot be legally sustained.

19. We are in agreement with the views expressed by the learned Single Judge that though the statute is silent, nonetheless before issuing a notification under Sub-Section (1) of Section 3 of the Slum Act, the affected person(s) or interested person(s) should be put on notice and heard. Since there was no such notice and hearing, the impugned notification dated 28.05.2011 cannot be sustained. It has been rightly interfered with by the learned Single Judge. Since the notification under Sub-Section (1) of Section 3 is set aside, the notice issued under Sub-Section (2) of Section 3 of the Slum Act cannot survive since it is dependent on the notification under Sub-Section (1) of Section 3. However, it is the final direction of the learned Single Judge which we find problematic. Learned Single Judge has directed the respondents (appellants herein) forbearing them from



interfering with the proprietary rights of the petitioner (1<sup>st</sup> respondent) over the subject land. In our opinion, such a direction is wholly uncalled for and unwarranted. Challenge in the writ petition was to the notification issued under Sub-Section (1) of Section 3. The adjudication was confined only to validity of the said notification. Thus learned Single Judge has gone beyond the relief sought for by the 1<sup>st</sup> respondent in the writ petition. Therefore such direction of the learned Single Judge is set aside.

20. However, we are mindful of the fact that the Slum Act is a beneficial piece of legislation intended to improve the living conditions of the slum dwellers and to eradicate unhygienic, sanitary and squalid conditions from neighbourhoods of urban areas which can be a source of danger to public health.

21. Keeping the above in mind and also the fact that the contesting parties are fully aware of the intent of the Government to declare the subject land as a slum area, we

are of the view that 1<sup>st</sup> respondent/writ petitioner as well as respondent Nos.3 to 24 shall file their reply/objection to such intent of the State before the District Collector, Hyderabad within a period of 30 days from today. Thereafter, the District Collector shall consider the objections filed and afford reasonable opportunity of hearing to the 1<sup>st</sup> respondent/writ petitioner and respondent Nos.3 to 24. On conclusion of the above exercise, District Collector shall pass appropriate order in accordance with law within a period of two (02) months from the date of submission of reply/objection by the parties.

22. This disposes of Writ Appeal No.152 of 2018.

23. Since we have upheld the order of the learned Single Judge in quashing the impugned notification dated 28.05.2011 under Section 3(1) of the Slum Act, the consequential notice dated 31.10.2011 issued by the District Collector, Hyderabad under Sub-Section (2) of Section 3 of the Slum Act would be of no legal consequence. Resultantly, Writ Petition No.40781 of 2016 stands allowed for statistical purposes.

24. We make it clear that we have not expressed any opinion on merit and all contentions are kept open.

25. As a sequel, miscellaneous applications pending, if any, in the Writ Appeal and the Writ Petition, shall stand closed. However, there shall be no order as to costs.

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**UJJAL BHUYAN, CJ**

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**N.TUKARAMJI, J**

Date: 09.02.2023

**Note:** L.R. copy to be marked.  
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