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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELATE JURISDICTION
PUBLIC INTEREST LITIGATION NO.56 OF 2003

Anna Hajare & Others	...Petitioners
vs.	
State of Maharashtra	...Respondent

Mr.Rahul Kadam for the petitioners
Mr.D.B.Khaire, Addl.G.P for respondent Nos.1 and 2.

CORAM : A.S.OKA, &
 A.K.MENON, JJ.
DATE : JANUARY 23, 2015

ORAL JUDGMENT : (PER A.S.OKA,J.)

1 None appears for the petitioners. We have perused the petition and the specific challenge therein. The petition arises under the provisions of the Urban Land (Cealing and Regulation) Act,1976 (for short 'ULC Act'). The Apex Court in its decision in the case of **Atia Mohammadi Begum Vs. State of Uttar Pradesh & Others**¹, held that when a land was not a vacant land on the date of commencement of the ULC Act, the Authorities cannot convert that land into a vacant land by their unilateral acts by including it in the master plan for any purpose other than agriculture. In the subsequent decision of the Larger Bench of the Apex Court in the case of **State of Andhra Pradesh & Ors. Vs. N. Audikesava Reddy & Others**², the Apex Court held that the decision in the case of Atia Begum was not correct. The Apex Court held that for determining whether a

1 AIR 1993 SC 2465

2 AIR 2002 SC 5

particular land is a vacant land or not for the purpose of ULC Act, a master plan prepared as per the law in force subsequent to the enforcement of the ULC Act shall be taken into consideration. On 8th July 2002, the State Government issued a direction to all the Additional Collectors cum Competent Authorities under the ULC Act directing that the review/revision of all the orders passed under sub-section (4) of section 8 of the ULC Act on the basis of the decision of the Apex Court in the case of Atia Begum should be undertaken. On 25th November 2002, another direction was issued by the State Government directing that earlier direction to undertake review/revision will apply only to those orders under sub-section (4) of section 8 of the ULC Act which were made after the decision of the Apex Court in the case of State of Andhra Pradesh. The said decision was rendered on 6th November 2001. Therefore, under the communication dated 25th November 2002, a direction was issued that only in case of those orders which have been passed under sub-section (4) of section (8) after 6th November 2001 relying upon the decision of the Apex Court in the case of Atia Begum, review/revision shall be undertaken. By this PIL, the challenge is to the said communication dated 25th November 2002. The substantive prayer is to direct all the Authorities to implement the directions contained in the earlier direction dated 8th July 2002.

2 In this petition, there is no interim order passed by this Court. As of today, even if the

petitioners are to succeed by establishing illegality of the directions issued on 25th November 2002, the question is whether any effective relief can be granted in this petition. The Urban Land (Cealing and Regulation) Repeal Act, 1999 (for short 'the Repeal Act') became applicable to the State with effect from 29th November 2007. We have perused the provisions of the Repeal Act and in particular sections 3 and 4 thereof. After having perused sections 3 and 4 thereof, we find that the power under section 34 of the ULC Act of entertaining a revision has not been saved. Moreover, what is saved is the proceedings in relation to sections 11, 12, 13 and 14 of the ULC Act. Sections 11 to 14 essentially deal with the payment of amount for acquisition of vacant land. Thus, after 29th November 2007, now no Authority of the State Government can exercise any power of amending or modifying the order under sub-section (4) of section 8 of the ULC Act.

3 In view of this subsequent event of the enforcement of Repeal Act with effect from 29th November 2007, no relief can be granted in this PIL.

4 Accordingly, PIL is disposed of. Rule is discharged.

(A.K.MENON, J.)

(A.S.OKA, J.)