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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.1885 OF 2016**

Shri Laxman Nana More & Ors. ... Petitioners
Vs.
The State of Maharashtra & Anr. ... Respondents

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Mr. Sachin Gite for the Petitioner.
Ms. Aparna Vhatkar, AGP for Respondent nos. 1 and 2.

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**CORAM : A.S. OKA &
A.K. MENON, JJ.
DATE : 5th APRIL, 2017**

P.C.

1. Heard learned Counsel for the petitioners and learned AGP for the respondents. The predecessors of the present petitioners were holding lands in village Ambad Khurd bearing survey no. 272 admeasuring 700 square meters, survey no. 277 admeasuring 7500 square meters, survey no. 298 admeasuring 9400 square meters, 304/1 admeasuring 43350 square meters and one-fourth share in land bearing survey no. 248 admeasuring 2500 square meters. On 30th January, 1982 an order under sub-section (4) of Section 8 of the Urban Land (Ceiling and Regulation) Act, 1976 (for short "ULC Act") was made by the Competent Authority of the Nashik Urban Agglomeration.

2. Out of the total holding an area of 48,786.02 square meter was declared as a vacant land held in excess of ceiling limit. On 21st August, 1982 an order of exemption under sub-section (1) of Section 20 of the ULC Act was passed in respect of total area of 44,786.00 square meter forming part of the aforesaid five survey numbers. One of the conditions imposed was that the exempted land should be used only for agricultural purpose and should not be divided. Another condition was that on revocation or withdrawal of the order of exemption, Chapter III of the ULC Act will apply to the land which is the subject matter of exemption.

3. On 6th June, 1995 a separate order of exemption was passed by the State Government under Clause (a) sub-section (1) of Section 20 of the ULC Act in respect of survey no. 304/1 (Part). On 2nd January, 2004 the Competent Authority of the Nashik Urban Agglomeration modified order under sub section (4) of Section 8 by holding that the vacant land held in excess of ceiling limit was 34,974.42 square meter.

4. The submission of the learned Counsel appearing for the petitioner is that the subsequent order of exemption dated 6th June, 1995 was only in respect of survey no. 304 /1 (part) and as a result, the earlier order dated 21st August, 1982 ceased to operate. Therefore, the

prayer in this petition is that the proceedings under ULC Act in respect of land bearing survey no. Gat no. 248 and 272 stand abated on the ground that till 29th November, 2007 the action of taking possession of excess land in accordance with Sub-Sections (5) and (6) of Section 10 of the ULC Act was not taken.

5. We have considered the submissions. We have carefully perused the first order of exemption dated 21st August, 1982, which is in respect of survey nos. 272, 277, 298, 304/1 (part) including survey nos. 248 and 272. The order does not state that it is effective upto a particular date. Moreover, it is not the case of the petitioner that when a separate order dated 6th June, 1995 was passed in respect of survey no. 304/1 (part), there was a specific order of revocation or cancellation of the order dated 21st August, 1982 passed by the State Government. Even assuming that the order dated 6th June, 1995 was validly passed in respect of the survey no. 304/1 (part), the effect thereof will be that the order dated 21st August, 1982 ceased to apply to land the bearing survey no. 304/1 (part).

6. If the order dated 21st August, 1982 was really withdrawn or cancelled on or before 29th November, 2007 [when the repeal of ULC Act came to be in force in the State], in view of clause (4) of the said order, the State Government could have taken over possession of the

land which is subject matter of order dated 21st August, 1982 except survey no 304/1(part).

7. Neither in section 20 nor in the order dated 21st August, 1982 there is anything to suggest that said order was operative for a limited period. Hence, there is no merit in the Writ petition and the same is dismissed.

(A.K. MENON, J)

(A.S. OKA, J)