



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH

WRIT PETITION NO. 2152 OF 2013

Pawanputra Janjeevan Samasya
Bhumivikas Gruhnirman Sahakari Sanstha,
through its President Shri Suresh Gulabrao Choudhary,
aged about 48 years, Occ. Business,
R/o Ayodhya Nagar, Near Sai Mandir,
Nagpur.

...PETITIONER

Versus

- 1] State of Maharashtra,
through the Additional Collector-cum-Competent Authority,
U.L.C. Nagpur, Civil Lines, Nagpur.
- 2] The Additional Commissioner,
Nagpur, Civil Lines, Nagpur.

...RESPONDENTS

Mr. S.S. Sitani, Counsel for the petitioner.
Mr. S.B. Bissa, A.G.P. for the respondents.

CORAM : ANIL L. PANSARE, J.
DATE : JANUARY 2, 2025

ORAL JUDGMENT :

The petitioner is aggrieved by order dated 20/7/2009 passed by respondent no.2 – the Additional Commissioner, Nagpur, in Appeal No. 1/ULC/2007-08. Respondent no.2, taking aid of Section 4 of the Urban Land (Ceiling And Regulation) Repeal Act, 1999 (for short “Repeal

Act”), has disposed of, as abated, the appeal filed by the petitioner under Section 33 of the Urban Land (Ceiling and Regulation) Act, 1976. Section 4 of the Repeal Act reads as under :

“4. Abatement of legal proceedings.- All proceedings relating to any order made or purported to be made under the principal Act pending immediately before the commencement of this Act, before any Court, tribunal or other authority shall abate:

Provided that this section shall not apply to the proceedings relating to sections 11,12,13 and 14 of the principal Act insofar as such proceedings are relatable to the land, possession of which has been taken over by the State Government or any person duly authorised by the State Government in this behalf or by the competent authority.”

2] As could be seen, all proceedings relating to any order made or purported to be made under the Principal Act pending immediately before commencement of the Repeal Act stood abated, except the proceedings pertaining to Sections 11, 12, 13 and 14 of the Principal Act, if covered under proviso to Section 4.

3] Admittedly, the appeal that was filed is/was not covered by the proviso. Accordingly, respondent no.2 has passed order of abatement in terms of Section 4 of the Repeal Act as also by taking aid of Government direction dated

23/4/2008 by which the appeals filed under Section 33 were directed to be kept as dormant for a period of one year and after completion of the said period, were to be declared as abated.

4] The learned Counsel for the petitioner has invited my attention to order dated 20/7/2009 passed by this Court in Writ Petition No. 3297/2008, wherein the earlier order passed by respondent no.2 was challenged on the ground that no reasons were assigned while dismissing the appeal. This Court was pleased to remand the matter back with a direction to record reasons as to how Repeal would render the appeal infructuous and whether or not, there was any communication from the Government, appeal ought to be decided by recording reasons. The learned Counsel for the petitioner submits that despite such order, respondent no.2 has not assigned any reason but has passed order of abatement in terms of Section 4 of the Repeal Act.

5] I have gone through both the orders, *viz.*, order passed by respondent no.2 as also order passed by this Court. Both the orders are of even date, *viz.*, 20/7/2009. There is

nothing on record to show that the order passed by this Court was brought to the notice of respondent no.2. In view thereof, it cannot be said that the impugned order passed by respondent no.2, which was passed in terms of Section 4 of the Repeal Act, is perverse.

6] The petition is accordingly dismissed. Rule is discharged.

JUDGE

Sumit