State Of Gujarat And Ors. Etc vs Parshottamdas Ramdas Patel & Ors on 12 November, 1987

Equivalent citations: 1988 AIR 220, 1988 SCR (1) 997, AIR 1988 SUPREME COURT 220, 1988 (1) SCC 132, 1988 29 GUJLR 379, 1988 21 REPORTS 34, (1987) 4 JT 323 (SC), (1988) 1 GUJ LR 379, 1988 BLJR 145, 1987 5 JT 323, 1988 (1) UJ (SC) 113, (1988) 1 SCJ 381, (1988) 1 LANDLR 454, (1988) MAHLR 539, (1988) 2 RENCR 4, (1988) 14 ALL LR 101, (1988) 1 CURCC 735

Author: E.S. Venkataramiah

Bench: E.S. Venkataramiah, K.N. Singh

PETITIONER:
STATE OF GUJARAT AND ORS. ETC.

Vs.

RESPONDENT:
PARSHOTTAMDAS RAMDAS PATEL & ORS.

DATE OF JUDGMENT12/11/1987

BENCH:
VENKATARAMIAH, E.S. (J)
BENCH:
VENKATARAMIAH, E.S. (J)
SINGH, K.N. (J)

CITATION:
1988 AIR 220 1988 SCR (1) 997
1988 SCC (1) 132 JT 1987 (4) 323
1987 SCALE (2)1141
CITATOR INFO :
F 1989 SC1796 (5,12)

ACT:
Urban Land (Ceiling and Regulation) Act, 1976 Section 2(q)(i)-'Vacant land'-What is-Applicability of Act to 'land' which is subject matter of land Acquisition proceedings.

HEADNOTE:
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The State Government of Gujarat-Appellant, issued a Notification dated March 31,1976 published in the Government

Gazette dated April 8, 1976 under Section 4(1) of the Land Acquisition Act, 1894 stating that the Lands of the respondents were likely to be needed for the public purpose of providing housing accommodation for the employees of the Municipal Corporation, and that after making an enquiry under section 5-A of the Land Acquisition Act, 1894 the State Government had issued a declaration under section 6 of the said Act declaring that the aforesaid lands along with other lands were needed for the said public purpose.

In the meanwhile the Urban Land Ceiling and Regulation Act, 1976 came into force with effect from 17.2.1976.

The respondents filed statements before the Competent Authority under section 6 of the 1976 Act including the lands to be acquired which were in excess of the ceiling limit which each of the respondents could retain after the coming into force of the 1976 Act.

Thereafter, the respondents filed writ petitions contending that the acquisition proceedings under the Land Acquisition Act, 1894 should be proceeded with and the acquisition proceedings to the extent it related to the surplus land under the ceiling law should be dropped. The applicability of the provisions of the Urban Land (Ceiling and Regulation) Act, 1976 insofar as they were applicable within the limits of the Municipal Corporation were questioned contending that: (i) the Act was beyond the legislative competence of Parliament insofar as the State Government of Gujarat was concerned; (ii) that the lands in question were not 'vacant lands' as defined in the Act and, therefore the proceedings instituted in respect of them under the Act were liable to be quashed, and (iii) that the land acquisition proceedings under the Land
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Acquisition Act 1894 which were initiated should be completed, and the Land Acquisition Officer should be directed to pass awards in favour of the respondents. These writ petitions were contested by the appellants-State.

The High Court though negativing the contentions of the respondents regarding the legislative competence of Parliament to pass the Urban Land Act, quashed the proceedings instituted under the Act. It, however, declined to issue a writ in the nature of mandamus directing the Land Acquisition Officer before whom the proceedings were commenced under the Land Acquisition Act, 1894 as he was not made a party to the writ proceedings, but made a declaration that the land acquisition proceedings did not suffer from any infirmity.

The State Government aggrieved by the judgment of the High Court filed Special Leave Petitions to this Court.

On the question whether; the lands of the respondents are lands to which the Urban Land (Ceiling and Regulation) Act, 1976 would apply.

Allowing the Appeals,

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HELD: 1. The finding of the High Court that by virtue of section 29(1)(a) of the Bombay Town Planning Act, 1954 the lands fell outside the definition of 'vacant land' in the Urban Land Act, 1976 is unsustainable. The High Court omitted to notice that the owners were entitled to construct buildings on the lands after the permission was accorded by the local authority. [1005C]

2. The object of the Urban Land Act, 1976 is to provide for the imposition of a ceiling on 'vacant land' in urban agglomerations for the acquisition of such land in excess of the ceiling limit and to regulate the construction of buildings on such land and to bring about an equitable distribution of land in urban agglomerations to subserve the common good. [1000G]

3. The question whether a piece of land is a 'vacant land' or not does not depend upon the fact whether a prudent man would put up a building on that land or not after the issue of a notification under section 4(1) of the Land Acquisition Act, 1894. Nor a land will cease to be a 'vacant land' merely because the permission of certain authorities is to be taken to put up a building thereon. [1006G-H]
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4. The proceedings under the land Acquisition Act, 1894 cannot have any bearing on the question whether the lands in question are 'vacant lands' or not for the purposes of the ceiling law contained in the Urban Land Act, 1976. When the lands in question or bulk of them are likely to be acquired under the ceiling law by paying a compensation as provided therein, it would not be proper to compel the Government to acquire them under the Land Acquisition Act, 1894. [1007D]

5. Sub-clause (i) of clause (q) of section 2 of the Urban Land Act 1976 does not provide that a land on which the owner cannot construct a building will cease to be 'vacant land' for the purposes of the Act. [1007F]

6. As long as construction of a building can be done on a land by some person or authority, the land does not get excluded from the definition of the expression 'vacant land' under the Act. The lands in the instant case, therefore, are 'vacant lands.' [1007G]

Smt. Shanti Devi v. The Competent Authority under U.L. (C.R.) Act, 1976 Delhi and others, AIR 1980 Delhi 106, overruled.

Prabhakar Narhar Pawar v. State of Maharashtra and Another, AIR 1984 Bombay 122 and The State of U.P. and another v. Radha Raman Agarwal and another, AIR 1987 Allahabad 272, approved.

JUDGMENT:

CIVIL APPELLATE JURISDICTION: Civil Appeal Nos. 635-642 of 1981.

From the Judgment and order dated 19/22.9.1980 of the Gujarat High Court in S.C.A. Nos. 3295, 3480, 3481, 3648, of 1979, 668, 669,889and 1205 of1980.

G. Ramaswamy, Additional Solicitor General, G.A. Shah, Hameed Qureshi and M.N. Shroff for the Appellants.

B.K. Mehta, M.N. Goswami, P.V. Nanavathy and H.S. Parihar, for the Respondents.

The Judgment of the Court was delivered by VENKATARAMIAH, J. These appeals by special leave are filed against the common judgment in eight writ petitions on the file of the High Court of Gujarat. The respondents in these appeals i.e. the petitioners in the said writ petitions questioned the applicability of the provisions of the Urban Land (Ceiling and Regulation) Act, 1976 (Act 33 of 1976) (hereinafter referred to as `the Act') to several pieces of land belonging to them situated within the limits of the Ahmedabad Municipal Corporation. They raised three contentions before the High Court-(i) that the Act was beyond the legislative competence of Parliament insofar as the State of Gujarat was concerned; (ii) that the lands in question were not vacant lands as defined in the Act and, therefore, the proceedings instituted in respect of them under the Act were liable to be quashed; and (iii) that the land acquisition proceedings under the Land Acquisition Act, 1894 which had been initiated in respect of the lands in question should be completed and the Land Acquisition Officer should be directed to pass awards in favour of the respondents. The writ petitions were resisted by the State of Gujarat and despite such opposition the High Court allowed the writ petitions. The High Court negatived the contention of the respondents regarding the legislative competence of Parliament to pass the Act in view of the decision in Union of India etc. v. Valluri Basavaiah Chaudhary etc etc. [1979] 3 S.C.R. 802. The High Court, however, quashed the proceedings instituted under the Act in respect of the aforesaid lands which were pending before the Additional Collector and the Competent Authority, Ahmedabad. While the High Court declined to issue a writ in the nature of mandamus directing the Land Acquisition Officer, before whom the proceedings commenced under the Land Acquisition Act, 1894 were pending as he had not been made a party to the writ petitions, it, however, made a declaration that the land acquisition proceedings did not suffer from any infirmity. Indirectly the High Court indicated that the land acquisition proceedings should be proceeded with. Aggrieved by the judgment of the High Court the appellants have filed these appeals by special leave.

The principal question which arises for consideration in this case is whether the lands in question are the lands to which the Act would apply. The Act came into force with effect from 17.2.1976. The object of the Act, as can be seen from its preamble, is to provide for the imposition of a ceiling on vacant land in urban agglomerations, for the acquisition of such land in excess of the ceiling limit, to regulate the constructions of buildings on such land and for matters connected therewith, with a view to preventing the concentration of urban land in the hands of a few persons and speculation and profiteering therein and with a view to bringing about an equitable distribution of land in urban agglomerations to subserve the common good. Section 3 of the Act, which may be considered to be the key section of the Act, pro-

vides that except as otherwise provided in the Act, on and from the commencement of the Act, no person shall be entitled to hold any vacant land in excess of the ceiling limit in the territories to which the Act applies under sub- section (2) of section 1. The State of Gujarat is one of the States to which the Act has been made applicable by virtue of the provisions in sub-section (2) of section 1 of the Act. The ceiling limit is prescribed by section 4 of the Act. The expression 'vacant land' is defined in section 2(q) of the Act thus:

> "2(q) `Vacant land' means land, not being land mainly used for the purpose of agriculture, in an urban agglomeration, but does not include-
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> (i) land on which construction of a building is not permissible under the building regulations in force in the area in which such land is situated;
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> (ii) in an area where there are building regulations, the land occupied by any building which has been constructed before, or is being constructed on, the appointed day with the approval of the appropriate authority and the land appurtenant to such building; and
>
> (iii) in an area where there are no building regulations, the land occupied by any building which has been constructed before, or is being constructed on, the appointed day and the land appurtenant to such building:
>
> Provided that where any person ordinarily keeps his cattle, other than for the purpose of dairy farming or for the purpose of breeding of live-stock, on any land situated in a village within an urban agglomeration (described as a village in the revenue records), then, so much extent of the land as has been ordinarily used for the keeping of such cattle immediately before the appointed day shall not be deemed to be vacant land for the purposes of this clause."

Section 6 of the Act requires every person holding vacant land in excess of the ceiling limit at the commencement of the Act to file a statement before the competent authority having jurisdiction on the area in which the land is situated. Section 7 of the Act is ancillary to section 6 of the Act. Section 8 of the Act provides for the preparation of the draft statement as regards the vacant land held by any person in excess of the ceiling limit and for calling for objections from the owner to the said statement. It also empowers the competent authority to consider the objections raised by the owner of the land and to pass such order as it deems fit. After the disposal of the objections the competent authority is required by section 9 of the Act to make the necessary alterations in the draft statement in accordance with the orders passed on the objections aforesaid and to determine the vacant land held by the person concerned in excess of the ceiling limit. A copy of the draft statement as so altered as the final statement under section 9 of the Act. After the service of the final statement prepared under section 9 of the Act on the person concerned the competent authority is required to acquire the land held by the person concerned in excess of the ceiling limit in accordance with the procedure prescribed therein. Section 11 of the Act provides for payment of compensation in accordance with the principles contained therein. The Act contains provisions regarding the

constitution of the Urban Land Tribunal and makes provisions for appeal to the Urban Land Tribunal and also a second appeal to the High Court. Section 19 of the Act provides that subject to the provisions of sub-section (2) thereof nothing in Chapter III of the Act would apply to vacant lands held by the Central Government or any State Government or any local authority or corporation or other institution specified therein. Section 15 of the Act imposes ceiling limit on future acquisition of vacant lands also. It is not necessary to refer to the several other provisions in the Act except section 42 thereof. Section 42 of the Act provides that the provisions of the Act shall have effect notwithstanding anything inconsistent therewith in any other law for the time being in force or any custom, usage or agreement or decree or order of a court, tribunal or other authority. Thus the Act is given an overriding effect.

We have already given the definition of the expression `vacant land' found in section 2(q) of the Act. `Vacant land' means any land which is not being used mainly for the purpose of agriculture. But it does not include (i) land on which construction of a building is not permissible under the building regulations in force in the area in which such land is situated; (ii) in an area where there are building regulations, the land occupied by any building which has been constructed before, or is being constructed on, the appointed day with the approval of the appropriate authority and the land appurtenant to such building; and (iii) in an area where there are no building regulations the land occupied by any building which has been constructed before, or is being constructed on, the appointed day and the land appurtenant to such building. The proviso to the definition in section 2(q) of the Act provides that where any person ordinarily keeps his cattle, other than for the purpose of dairy farming or for the purpose of breeding of live-stock, on any land situated in a village within an urban agglomeration (described as a village in the revenue records), then, so much extent of the land as has been ordinarily used for the keeping of such cattle immediately before the appointed day shall not be deemed to be vacant land for the purposes of this clause. The expression `appointed day' is defined in section 2(a) of the Act. Under that clause `appointed day' means in relation to any State to which the Act applied in the first instance, the date of introduction of the Urban Land (Ceiling and Regulation) Bill, 1976 in Parliament, and in relation to any State which adopts the act under clause (1) of Article 252 of the Constitution, the date of such adoption. So far as the State of Gujarat is concerned, the appointed date is the date of introduction of the Urban Land (Ceiling and Regulation) Bill, 1976 in Parliament since the Act became applicable to the State of Gujarat at the first instance by virtue of section 1(2) of the Act.

The first contention raised by the respondents, namely, that the lands in question were agricultural lands under the Bombay Land Revenue Code, 1879, and, therefore, they were not vacant lands under the Act was rejected by the High Court itself and we need not dwell on it in these appeals since the said contention has not been raised before us.

The second contention raised by the respondents who were petitioners before the High Court was that the lands in question were lands on which the construction of buildings was not permissible under the building regulations in force in the area in which the lands were situated and, therefore, they were outside the scope of the expression `vacant land'. In other words the contention was that as the lands in question were lands which came within the scope of sub- clause (i) of clause (q) of section 2 of the Act, they could not be treated as vacant lands. Three grounds were urged in support

of the above contention and they were based on the existence of a town planning scheme, namely, the Town Planning Scheme No. 29 framed by the Ahmedabad Municipal Corporation under the Bombay Town Planning Act, 1954 which was in force at the relevant time. The first ground urged in this behalf by the respondents before the High Court was that permission to build on the lands in question could not be granted by the authorities concerned as they had been included within the `green belt' around the city of Ahmedabad under the Town Planning Scheme and hence they were not vacant lands. This plea was not accepted by the High Court because the proposal to retain the `green belt' had been abolished in the year 1975 and the restrictions on building, if any, on those lands on that account were no longer in existence. The second ground urged before the High Court was that on the coming into force of the Town Planning Scheme No. 29 framed under the Bombay Town Planning Act, 1954 no building activity was permissible on the aforesaid lands because the said lands had been reserved for a public purpose, namely, construction of Government staff quarters. In support of this submission reliance was placed on section 29 of the Bombay Town Planning Act, 1954. The relevant part of section 29 of the Bombay Town Planning Act,-1954 reads as follows:

> "Restriction after declaration for town planning scheme.
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> 29(1). On or after the date on which the local authority's declaration of intention to make a scheme under section 22 or the notification issued by the State Government under section 24 is published in the Official Gazette,-
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> (a) no person shall within the area included in the scheme erect or proceed with any building or work or remove, pull down, alter, make additions to or make any substantial repair to any building, part of a building, a compound wall or any drainage work or remove any earth, stone or material, or sub-divide any land, or change the user of any land or building unless such person has applied for and obtained the necessary permission which shall be contained in a commencement certificate granted by the local authority in the form prescribed ....."

The High Court treating section 29(1)(a) of the Bombay Town Planning Act, 1954 as a building regulation within the meaning of that expression used in sub-clause (i) of clause

(q) of section 2 of the Act was of the view that the ban contained in clause (a) of section 29(1) of the Bombay Town Planning Act, 1954 brought the lands in question within sub- clause (i) of clause (q) of section 2 of the Act. Assuming for purposes of argument that section 29(1)(a) of the Bombay Town Planning Act, 1954 amounted to a building regulation it cannot be said that the construction of buildings on the land in question was not permissible at all. Section 29(1)(a) of the Bombay Town Planning Act, 1954 only required a person who owned a piece of land situated within an area included in the scheme to obtain the permission from the local authority before erecting or constructing any building or pulling down or altering any building as provided therein. Merely because section 29(1)(a) of the Bombay Town Planning Act, 1954 requires a person owning the land to which a scheme applied to obtain permission of the local authority to construct a building on it, it cannot be said that the land was one on which construction of building was not permissible. The

embargo in question was not total. It was only where the ban was complete it could be said that no construction was permissible on the land. The High Court omitted to notice that the owners were entitled to construct buildings on the lands after the permission was accorded by the local authority. The finding of the High Court that by virtue of section 29(1)(a) of the Bombay Town Planning Act, 1954 the lands fell outside the definition of `vacant land' in the Act is, therefore, unsustainable.

It was no doubt true that the State Government had issued a notification dated March 31, 1976 published in the Gujarat Government Gazette dated April 8, 1976 under section 4(1) of the Land Acquisition Act, 1894 stating that the lands in question were likely to be needed for a public purpose, namely, for providing housing accommodation for the employees of the Ahmedabad Municipal Corporation and that after making an enquiry under Section 5-A of the Land Acquisition Act, 1894 the State Government had issued declaration under section 6 of that Act declaring that the aforesaid lands along with other lands were needed for the public purpose referred to above. In the meanwhile the Act came into force with effect from 17.2.1976. The respondents filed statements before the competent authority under section 6 of the Act including the lands in question which were in excess of the ceiling limit which each of them could retain after the coming into force of the Act. Thereafter they filed the above writ petitions out of which these appeals arise contending that the acquisition proceedings under the Land Acquisition Act, 1894 should be proceeded with and the acquisition of proceedings of the surplus land under the ceiling law should be dropped. In this connection the respondents relied upon the provisions contained in section 24 of the Land Acquisition Act, 1894 in which clause `seventhly' stated that any outlay or improvements on, or disposal of the land acquired, commenced, made or effected without the sanction of the Collector after the date of publication of the notification under section 4, sub-section (1) of the Land Acquisition Act, 1894 should not be taken into consideration by the Court at the time of determining compensation payable under the said Act. The argument of the respondents was that clause `seventhly' in section 24 of the Land Acquisition Act, 1894 again amounted to an embargo on construction of buildings on the lands which attracted sub-clause (i) of clause (q) of section 2 of the Act and, therefore, the lands were not vacant lands. Reliance was placed by the respondents on the decision of the High Court of Delhi in Smt. Shanti Devi v. The Competent Authority under U.L. (C. & R.) Act, 1976, Delhi and others, AIR 1980 Delhi 106 in which the High Court of Delhi had taken the view that a land in respect of which a notification under section 4(1) of the Land Acquisition Act, 1894 had been issued was a land on which construction of buildings was not permissible and was thus outside the definition of the expression `vacant land' in section 2(q) of the Act. The reason given by the Delhi High Court for reaching the above conclusion is set out in para 12 of the said decision. It reads thus:-

> "12. It is pertinent to note that the land in Sant Nagar is under threat of acquisition by issue of S. 4 notification of the Land Acquisition Act, 1894. This is not denied by the respondents. In this view of the matter also building activity would not be permissible as no prudent person would construct on land already notified under S. 4 of the said Act because he will get no compensation for it unless the construction is made with the permission of the Land Acquisition Collector. For all intents and purposes the effect of S. 4 notification, therefore, is that building activity is not permissible in Sant Nagar. This would also result in excluding the Sant Nagar plots

from the total holding of the petitioner for the purposes of computing vacant land under the Act."

With great respect to the High Court of Delhi it has to be stated that the view taken by it is wholly incorrect. The High Court of Delhi omitted to notice that in order to exclude a land from the definition of `vacant land' it should be shown that it was a land on which construction of a building was not permissible under the building regulations in force in the area in which such land was situated. The question whether a piece of land is a vacant land or not does not depend upon the fact whether a prudent man would put up a building on that land or not after the issue of a notification under section 4(1) of the Land Acquisition Act, 1894. Nor a land will cease to be a vacant land merely because the permission of certain authority is to be taken to put up a building thereon. It may be further seen that what clause `seventhly' in section 24 of the Land Acquisition Act, 1894 provides is that any outlay or improvements on, or disposal of the land acquired, commenced, made or effected without the sanction of the Collector after the date of the publication of the notification under section 4(1) of the Land Acquisition Act shall not be taken into consideration while awarding compensation. It does not ban the construction of any building on the land which is so notified. The High Court of Gujarat against whose judgment these appeals have been filed also committed an error in accepting a similar contention which was urged before them. The declaration made by the High Court in these cases that the land acquisition proceedings did not suffer from an infirmity which indirectly suggests that the proceedings should go on is again erroneous. It is open to the State Government to drop the land acquisition proceedings and to withdraw the lands from acquisition under section 48 of the Land Acquisition Act, 1894. We are informed that the State Government has in fact subsequently withdrawn these lands from acquisition. The proceedings under the Land Acquisition Act, 1894 cannot therefore have any bearing on the question whether the lands in question are vacant lands or not for purposes of the ceiling law contained in the Act. When the lands in question or bulk of them are likely to be acquired under the ceiling law by paying compensation as provided therein, it would not be proper to compel the Government to acquire them under the provisions of the Land Acquisition Act, 1894. As already stated the Act has the overriding effect on all other laws.

It was, however, urged before this Court by the learned counsel for the appellants that because the lands in question have been reserved under the Town Planning Scheme for purposes of building staff quarters the lands could not be treated as vacant lands. We do not find any substance in this submission because the construction of buildings on the lands in question is permissible though not by the owners of land. Sub-clause (i) of clause (q) of section 2 of the Act does not provide that a land on which the owner cannot construct a building will cease to be vacant land for purposes of the Act. As long as construction of building can be done on a land by some person or authority, the land does not get excluded from the definition of the expression `vacant land' under the Act. The lands in question, therefore, are vacant lands.

Before concluding our judgment we wish to refer to the decision of the Full Bench of the High Court of Bombay in Prabhakar Narhar Pawar v. State of Maharashtra and another, AIR 1984 Bombay 122 in which the following passage appears at page 130:

"Reliance was placed on the decision of the Delhi High Court in Shanti Devi v. Competent Authority, (AIR 1930 Delhi 106). In that decision, the learned Judges of the Delhi High Court took the view that S. 2(q) of the Act contemplated that the activity of building is not permissible on the date when the land is sought to be dealt with and not at any future time and the possibility that such activity could come to be permitted in future or that there are buildings constructed in the area or that there is no prohibition to construct in an unapproved colony or that there is no permanent prohibition to construct would not be sufficient to treat the land as `vacant land' within the meaning of the provision. So far as the decision holds that the relevant date for determination for the purpose of S. 2(q)(i) of the Act is the date on which the land is sought to be dealt with, that is, the commencement date referred to in S. 3 there can be no dispute. In a part of the decision, the Division Bench seems to have taken the view that land notified for acquisition under the Land Acquisition Act must be held to be one on which construction of buildings was not permitted. We are really not concerned with that view, so far as the present petitions are concerned, but it is sufficient to point out that the correctness of that view has not been accepted by this Court in Dattatraya v. State of Maharashtra, [1981] Mah LJ 764; (AIR 1981 Bom 326) and in an unreported decision of this Court in D.P. Dani v. State of Maharashtra (Writ Petition No. 1650 of 1979 decided on 31st January, 1983). In Dattatraya's case the contention was that certain plots of land which were reserved for various public activities, such as buildings of primary school, high school, civil hospital, bus terminus etc. under the Town Planning Scheme should be excluded for the purpose of computation of vacant land, because, according to the petitioners, in that case no building activity was permitted on those lands so far as the petitioners were concerned. The Division Bench after referring to the primary object of the Act as set out in the case of Union of India v. Valluri Basavaiah Choudhary, (AIR 1979 SC 1415) rejected the contention that merely because the petitioners are prohibited from constructing any building under the building regulations contained in the Town Planning Scheme the land should not be treated as vacant land. The Division Bench found that if the regulations allowed the building activity not to a person who holds that land but by public bodies or the State Government then certainly construction of building is permitted either by an individual or even by public authority and cannot be taken out of the definition."

We agree with the observations made in the above case. A Full Bench of the Allahabad High Court has in The State of U.P. and another v. Radha Raman Agarwal and another, AIR 1987 Allahabad 272 also taken the view that a land will cease to be a `vacant land' for purposes of the Act only where the construction of a building on it is wholly impermissible. We agree with the views expressed by the High Courts of Bombay and Allahabad.

In the result we allow these appeals, set aside the judgment of the High Court and dismiss the writ petitions filed in the High Court. There will, however, be no order as to costs.

N.V.K. Appeals allowed.