

Property Owners' Association & Ors. ... vs State Of Maharashtra & Ors. on 21 March, 2001

Equivalent citations: AIR2001SC1668, JT2001(4)SC152, 2001(2)SCALE523, (2001)4SCC455, 2001(2)UJ858(SC), AIR 2001 SUPREME COURT 1668, 2001 (4) SCC 455, 2001 AIR SCW 1403, 2001 (2) SCALE 523, (2001) 4 JT 152 (SC), 2001 (4) JT 152, 2001 (4) SRJ 430, 2001 (2) UJ (SC) 858, (2001) 2 SUPREME 457, (2001) 2 SCALE 523, (2001) 3 BOM CR 54, 2001 (4) BOM LR 871, 2001 BOM LR 4 871

Bench: B.N. Kirpal, S.S. Mohammed Quadri, M.B. Shah, Ruma Pal, K.G. Balakrishnan

ORDER

1. In these cases the main challenge is to the constitutional validity of Chapter - VIIIA which was inserted in 1986 in the Maharashtra Housing and Area Development Act, 1976 which, inter alia, provided for the acquisition of certain properties on payment of hundred times the monthly rent for the premises. By the said amendment, Section 1A was also inserted in that Act and it contains a declaration that the Act is for giving effect to the policy of the State towards securing the principles specified in Clause (b) of Article 39 of the Constitution of India. In view of Article 31C of the Constitution, the contention of the State was that the validity of any part of the statute on the ground that it violated Article 14 or 19 of the Constitution, was not permissible.

2. The case was heard by a Bench of Three Judges. At that time on behalf of the appellants a contention was sought to be raised, inter alia, to the effect that Article 31C did not survive because of the events subsequent to the decision in Keshavananda Bharati's case . It was also submitted before that Bench that the doctrine of revival, as it applied to ordinary statutes, did not apply to the Constitutional Amendment and when a part of the Forty-second Amendment, which amended Article 31C, had been held to be invalid it did not result in the automatic revival of the unamended Article 31C.

3. In view of the aforesaid contention which was raised, by Order dated 1st May, 1996 , the matter was referred to "a larger Bench of not less than five Judges for hearing and deciding these matters".

4. We heard the counsel at length on various issues which arise in these cases. One of the points which arises for consideration relates to the interpretation of Article 39(b) of the Constitution. In State of Karnataka and Anr. Etc. vs. Shri Ranganatha Reddy and Anr. Etc. validity of Karnataka Contract Carriages (Acquisition) Act, 1976 was challenged and the question which arose was whether the State Government could acquire and then transfer counter-signed portions of Inter State permits to Road Transport Corporation. Two judgments were delivered in that case. Krishna Iyer, J. for himself and two other learned Judges, while concurring with the decision of Untwalia, J.

(with whom three other Judges agreed), interpreted Article 39(b) of the Constitution and then came to the conclusion that the Act had direct nexus with Article 39(b) and by virtue of Article 31C its validity could not be challenged on the ground of its being violative of Article 14 or 19(1)(f) of the Constitution. Untwalia, J. in his judgment observed that "we do not consider it necessary to express any opinion with reference to Article 31C read with clauses (b) and (c) of Article 39 of the Constitution. Our learned brother Krishna Iyer, J. has prepared a separate judgment specially dealing with this point. We must not be understood to agree with all that he has said in his judgment in this regard".

5. The need to interpret Article 39(b) again arose in the case of Sanjeev Coke Manufacturing Company vs. Bharat Coking Coal Ltd. and Anr. . While upholding the validity of Coking Coal Mines (Nationalisation) Act, 1972 and the two other connected enactments the Constitution Bench adopted the interpretation of Article 39(b) as enunciated by Krishna Iyer, J. in Ranganatha Reddy's case (supra). This interpretation has also been followed by a Division Bench of this Court in State of Maharashtra and Anr. vs. Basantibai Mohanlal Khetan and Ors. .

6. The interpretation put on Article 39(b) by Krishna Iyer, J. in Ranganatha Reddy's case was not specifically assented to in the majority decision but in Sanjeev Coke's case (supra) it is the observations in the judgment of Krishna Iyer, J. which have been followed.

7. Having heard the counsel at length, we are of the opinion that the views expressed in Sanjeev Coke's case require reconsideration. Keeping in view the importance of the point in issue, namely, the interpretation of Article 39(b) it will be appropriate if these cases are heard by a larger Bench of not less than Seven Judges.

8. The papers be laid before Hon'ble the Chief Justice for appropriate orders.