

Assurance to Madras slum dwellers binding, says Supreme Court

From Our Legal Correspondent

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A Constitution Bench of the Supreme Court has ordered that an assurance given by the State of Tamil Nadu and the authorities concerned in their counter-affidavits—that it is the policy of the State Government not to evict such of the slum dwellers in the city (Madras), as were living in the slums prior to June 30, 1977, without providing alternative accommodation to them—"will bind the State Government."

The Chief Justice, Mr. Y. V. Chandrachud (who delivered the judgment of the Bench) gave a direction that "insofar as other slum dwellers are concerned, they too will not be evicted before December 31, 1985 (since Madras has a late monsoon) unless the land on which any slum stands is required by the State Government for an urgent public purpose."

In the event it becomes necessary to evict any of the slum dwellers belonging to this category prior to December 31, the State will have the liberty to apply to the Court, the Bench said.

Alternative accommodation: The Bench also directed that the pavement dwellers in the city will not be evicted before December 31, and the State Government will do its best to provide alternative accommodation to those amongst them who are able to show that they were living on pavements before June 30, 1977."

The Bench which included Mr. Justice S. Mur-tuza Fazal Ali, Mr. Justice V. D. Tulzapurkar, Mr. Justice O. Chinnappa Reddi and Mr. Justice A. Varadarajan, was disposing of a batch of two connected writ petitions filed on behalf of the slum dwellers and pavement dwellers in Madras city against their eviction without providing alternative accommodation. The petitioners also sought directions to the authorities for provision of basic amenities like water, drainage and electricity to the slum dwellers.

The ruling on constitutional questions given in the Bombay pavement and slum dwellers cases would govern these cases also, the Bench said.

Benevolent policy: "We are satisfied", the Bench noted, "on a careful consideration of the statements contained in the counter-affidavits filed on behalf of the respondents, that the Government of Tamil Nadu has adopted a benevolent and sympathetic policy in regard to slum dwellers," and that "steps are being taken for the purpose of improving the slums and wherever they cannot be improved, alternative accommodation is provided to the slum dwellers, before they are evicted."

"In view of this position, we (Court) do not consider it necessary to issue any writ or direction to the Government of Tamil Nadu."

In this context, the Court observed that it would only express "our (Court's) confidence that the Government will continue to evince the same dynamic interests in the welfare of the pave-

ment dwellers and slum dwellers."

"We may remind the Government," the Bench said, of a statement contained in a report on the urban development of greater Madras: "The motto of slum clearance is God revealeth in the smile of the poor."

"Let the poor smile for a while," the Bench hoped in its judgment.

No right to encroach: In another judgment in the Bombay pavement dwellers and slum dwellers case, the Court has ruled that no person has the right to encroach by creating a structure or otherwise, on the footpaths, pavements or any other place reserved or earmarked for a public purpose like a garden or a playground.

In this judgment affecting lakhs of pavement dwellers and slum dwellers living in metropolitan cities, the Bench also ruled that "the right to life which is conferred by Article 21 includes the right to livelihood" and that "if the petitioners (pavement dwellers and slum dwellers) are evicted from their dwellings, they will be deprived of their livelihood."

The Chief Justice (who delivered the judgment of the Bench) directed the State of Maharashtra, the Bombay Municipal Commissioner and other authorities that pavement dwellers in the city of Bombay who were censused or who happened to be censused in 1976, should be given, "though not as a condition precedent to their removal", alternative pitches at Malavani or at such other Government place as the

Government considered reasonable "but not farther away in terms of distance" (*vis-a-vis* the place of their work).

The Court also directed that slum dwellers who were given identity cards and whose dwellings were numbered in the 1976 census must be given alternative sites for their resettlement.

The Bench was disposing of connected writ petitions filed on behalf of lakhs of Bombay pavement dwellers and slum dwellers challenging Section 314 of the Bombay Municipal Corporation Act (power to remove without notice, unauthorised structures and encroachments at public streets and places). The petitioners, relying on Article 21, also contended that they could not be evicted from their squalid shelters without being offered alternative accommodation.

Slums which had been in existence for a long time, say for 20 years or more, and "which have been improved or developed will not be removed unless the land on which they stand or the appurtenant land is required for a public purpose, in which case, alternative sites or accommodation will be provided to them", the Bench ordered.

Will not be removed: In order to minimise the hardship involved in any eviction, the Court directed that "the slums, wherever situated, will not be removed until one month after the end of the current monsoon season, that is, until October 3, 1985, and, thereafter, only in accordance with the judgment".