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C.A.No. 7547-7567 OF 1997

PART-HEARD

ITEM No. 103

Court No. 9

SECTION XIIA

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Civil Appeal Nos. 7547-7567 of 1997

COLLECTOR & DISTT. MAGISTRATE & ORS. Appellant (s)

VERSUS

KARANAM VENKATESWARLU ETC. Respondent (s)

(With appln.(s) for permission to place addl. documents on record  
and office report)

Date : 23/09/2003 These Appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SHIVARAJ V. PATIL  
HON'BLE MR. JUSTICE D.M. DHARMADHIKARI

For Appellant (s)Mr. Altaf Ahmad,ASG.  
Mr. G. Prabhakar,Adv.

For Respondent (s)Mr. M.N. Rao,Sr.Adv.  
Mr. S. Sadasiva Reddy,Adv.  
Ms. S. Usha Reddy,Adv.

Ms. B. Sunita Rao,Adv.

Mr. M.N. Rao,Sr.Adv.  
Mr. T.N. Rao,Adv.  
Mr. A. Ramesh,Adv.  
Mr. P.P. Singh,Adv.

Mr. Y. Raja Gopala Rao,Adv.

Mr. S.U.K. Sagar,Adv.  
Ms. Bina Madhavan,Adv.  
Mr. Prasanth P.,Adv.  
Ms. G. Indra,Adv.  
for M/s. Lawyer's Knit & Co.,Adv.  
....2/-

- 2 -

UPON hearing counsel the Court made the following  
O R D E R

Heard the learned counsel for the parties from 12.05 p.m. to 2.05 p.m.

Application for permission to place additional documents is allowed.

The civil appeals are disposed of without any order as to costs.

[ T.I. Rajput ][ Shelly Sengupta ]  
Court Master                      Court Master

[Signed order is placed on the file]

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS. 7547-7567 OF 1997

Collector & Distt. Magistrate & Ors.                      ...Appellant(s)

Versus

Karanam Venkateswarlu Etc.                      ...Respondent(s)

O R D E R

In these appeals, the directions given by a Division Bench of the High Court in the impugned order have been assailed.

Mr. Altaf Ahmad, learned Additional Solicitor, appearing on behalf of the appellants, submitted that the High Court, having recorded a finding of fact that the transactions of sale and purchase of the pieces of land in question were illegal, was not right in giving further directions, as contained in the impugned order, in regard to the distribution or allotment of excess land and when there is a specific provision in Section 23 of the Urban Land (Ceiling and Regulation) Act, 1976 [for short, 'the Act']; even otherwise, it was for the State Government to issue executive instructions, if need be. The learned Additional Solicitor pointed out that, in the impugned order, it is clearly recorded that, except the transaction

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relating to portions of 13-B, 14-B and whole of 15-B, all other transactions under which the writ petitioners claimed title to the plots are in respect of the excess land. He also drew our attention to the observations made by the High Court, in the impugned order, that "there can be no doubt that the claim by the petitioners in regard to their title to the plots of land is based on imperfect and illegal transfers purporting to be sales"; it is also recorded in the impugned order that there can be no denial of the fact that the purchases and sales of the land in question as also the constructions made thereon are illegal. According to the learned Additional Solicitor General, in view of the conclusions reached as to the nature and validity of the transaction of sale, there was no need for the High Court to give further directions, as is done in the impugned order, particularly when the provision is made in Sections 23 and 24 of the Act as to how the lands are to be allotted. He also pointed out that during the pendency of the appeals before this Court, the State Government has issued guidelines in the form of a Government Order, being G.O.Ms. No. 455 dated 29th July, 2002, relating to allotment of lands which would also cover the cases of the writ petitioners. He added that the guidelines issued by the State Government in this regard take note of the directions given by the High Court in the impugned order which are substantially similar to the directions given by the High Court. He submitted that there should be no difficulty in considering the cases of the respondents herein in accordance with the guidelines issued by the State Government.

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- 3 -

Per Contra, Mr. M.N. Rao, learned senior counsel representing the respondents, submitted that when the State Government has issued the guidelines in the form of a Government Order aforementioned having due regard to the directions given by the High Court in the impugned order, it may not be necessary to consider these appeals on the merits of the contentions raised by the appellants. He, however, added that some of the respondents may face difficulty in getting their claims considered in the light of the said Government Order aforementioned. He drew our attention to the Order dated 3rd November, 1997 passed by this Court, which reads:

"Delay condoned. Leave granted. Pending appeal, there shall be stay of the impugned order.

Learned Additional Solicitor General states that till this matter is decided the authorities will not demolish the existing structures."

This Court passed another order on 20th March, 1998 in the following terms:

"Having heard learned counsel for the applicants, we are of the view that no further order is required to be passed in these IAs save and except recording the statement of learned counsel for the State of Andhra Pradesh that in case the civil appeals are ultimately dismissed, then alternative sites will be made available to the original writ petitioners in the High court at any place within the local limits of Hyderabad Municipal Corporation as stated in the affidavit filed by the Government. It is also made clear that whatever construction is undertaken in the meantime on the land in question will be subject to the result of the appeals.

IAs are disposed of accordingly."

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- 4 -

He also pointed out to the averment made in the additional affidavit filed on behalf of the appellants on 14th March, 1998 and in paragraph (7) thereof, it is stated thus:

"In case the Hon'ble court grants any relief to the respondents, the State Government will provide with appropriate safeguards, the alternative land on market value as observed by the High Court while disposing of the WP No. 19344/95 and batch dated 3.2.1997."

The learned senior counsel further submitted that the authorities have filed cases against some of the respondents under the provisions of the Andhra Pradesh Land Grabbing (Prohibition) Act and pendency of those cases may come in the way of consideration of their claims in regularising and/or allotting the sites. An additional affidavit is filed on behalf of the respondents and paragraph (21) thereof reads thus:

"21. That, in implementation of the aforesaid G.O.Ms. No. 455 dated 29.07.2002, the State Government have issued orders regularizing the claims of the persons in occupation of the land declared surplus under the Act. A few orders in this regard are filed as Annexures. A true copy of the G.O. Ms. No.227 dated 20.02.2003 and a true copy of the G.O. Ms. No.278 dated 26.02.2003 are filed herewith and marked Annexure-A4 and Annexure-A5 respectively to the Affidavit. The claims of these Respondents must also be considered on the same lines as those of others covered by the aforesaid Government orders."

The learned Additional Solicitor General, looking to paragraph (21) of the additional affidavit extracted above, submitted that there should be no objection in considering

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- 5 -

the cases of the respondents, as indicated in the said paragraph. The learned counsel further submitted that so long as the cases are pending against some of the respondents under the provisions of the Andhra Pradesh Land Grabbing (Prohibition) Act, it may not be possible for the authorities either to allot or regularise allotment in their favour in the light of the Government Order afore-mentioned. Further, some of the respondents have been dispossessed pursuant to the action taken under the provisions of the said Act and it may deprive them of allotment going by the strict terms of the Government Order afore-mentioned on the ground that they are not found to be in occupation on the date of their claims.

Having regard to all aspects and taking into consideration the purpose and the background of issuing the Government Order afore-mentioned as also looking to the contents of the Government Order afore-mentioned which are substantially similar and consistent with the directions issued by the High Court, we do not think it necessary to examine the merits of the contentions raised in these appeals. All that we can say is that the cases of the respondents shall be examined and considered in terms of the Government Order afore-mentioned. We may add that as far as the cases pending before the Special Court are concerned, the authorities concerned shall keep in mind the object of the Government Order afore-mentioned and get the cases disposed of, as expeditiously as possible, so that it would enable such respondents against whom the cases are pending to pursue their claims for consideration for allotment.

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- 6 -

Further, in regard to the respondents who have been dispossessed, their cases may be considered for allotment of alternative sites in accordance with the Rules keeping in view the provisions of the Act and also having regard to the orders passed by this Court as also the Government Orders afore-mentioned.

The civil appeals stand disposed of accordingly but without any order as to costs.

.....J.  
[SHIVARAJ V. PATIL]

.....J.  
[D.M. DHARMADHIKARI]  
New Delhi,  
September 23, 2003.