

ITEM NO.101(PH)

COURT NO.7

SECTION XVI

SUPR EME COUR T OF I N D I A  
RECORD OF PROCEEDINGS

CIVIL APPEAL NO(s). 16879 OF 1996

STATE OF W B &amp; ORS

Appellant (s)

VERSUS

PASCHIM BANGA B.K. SAMITY &amp; ORS

Respondent(s)

(With Appl.(s) for intervention and permission to file additional documents and c/delay in filing SLP and bring LR.s. of intervenor No.37 in IA no.18 and c/delay in filing substitution of intervenor No.37 in IA 18 and and with office report)

WITH C.A.No.776/1997 (With Appl.(s) for stay and with office report),

C.A.No.1789/1997 (With Office Report),

C.A.No.1790/1997 (With Appl.(s) for stay and with office report),

C.A.No.2450/1997 (With Appl.(s) for stay and with office report),

C.A.No.2453/1997 (With Appl.(s) for stay and with office report),

C.A.No.334/1997 (With Appl.(s) for intervention and urging addl. grounds

and with office report),

SLP(C)No.1416/1997 (With Office Report),

C.A.No.775/1997 (With Appl.(s) for stay and with office report),

C.A.No.1719/1998 (With Office Report),

SLP(C)No.2031/2001(With Appl.(s) for c/delay in filing SLP and with

office report),

SLP(C)No.6432/2001 (With Prayer for Interim Relief and Office Report),

C.A.No.335/1997, C.A.No.510/1997 (With Appl.(s) for impleading party and

substitution of L.Rs of the deceased respondent and with office report),

C.A.No.509/1997 (With Appl.(s) for exemption from filing c/c of the

impugned Judgment and with office report),

W.P(C)No.523/2001 (With Office Report),

SLP(C)No.15441/2002 (With Appl.(s) for substitution and with office

report),W.P(C)No.199/2003 (With Appl.(s) for interim Relief and with

office report),

SLP(C)No.4248/2004 (With Prayer for Interim Relief and Office Report),

SLP(C)No.18690/2004 (With Appl.(s) for permission to place addl.

documents on record and with office report),C.A.No.8355/2004,

SLP(C)No.16664/2007 (With Prayer for Interim Relief),

SLP(C)No.25335/2007 (With Appl.(s) for directions and with Prayer for

Interim Relief and Office Report)

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Date: 22/07/2009 These Appeals/petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE R.V. RAVEENDRAN

HON'BLE MR. JUSTICE B. SUDERSHAN REDDY

For Appellant(s)

Mr. Tapas Ray, Sr. Adv.

Mr. H.K. Puri, Adv.

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Mr. Jay Savla, Adv.

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Mr. Shekar Kumar, Adv.  
Mr. Mukesh Kumar Singh, Adv.

Ms. Sarla Chandra, Adv.

Mr. S.K. Bhattacharya, Adv.

Mr. Rajiv Tyagi, Adv.

Dr. Monika Gusain, Adv.  
Mr. Hariom Yaduvanshi, Adv.

For Intervenor

Mr. S.C. Patel, Adv.  
Mr. Syamal Das, Adv.  
Mr. Amit Kr. Misra, Adv.  
Mr. Subhasish Bhowmick, Adv.

UPON hearing counsel the Court made the following  
ORDER

The writ petitioners before the High Court challenged the constitutional validity of the Amendment Acts of 1980, 1981 and 1986 in regard to the West Bengal Land Reforms Act, 1955. The writ petitioners, inter alia, contended that the

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protection under Articles 31A, 31B and 31C of the Constitution was not available to the said amendments. With reference to Article 31A it was submitted that it was applicable only to a law relating to agrarian reforms and as non-agricultural lands were also sought to be brought within the scope of the Act, by the Amendments, the amendments cannot get the protection under Article 31A. With reference to Article 31B it was contended that while the parent Act of 1955 was included in the 9<sup>th</sup> Schedule to the Constitution, the amending Acts which were brought into force subsequently will not get the protection. It was also contended that even if the Amending Acts were entitled to the protection of 31B on account of inclusion in the 9<sup>th</sup> Schedule, as they were violative of the basic structure of the Constitution, they cannot have any immunity. In regard to Article 31C, it was submitted that the said Article extended protection against challenge on the grounds available under Articles 14 and 19, but there was no protection with reference to Article 300A. It was also submitted that as the Amendment Acts only contemplated the non-agricultural lands (factories, mills and commercial buildings) vesting in the State Government without there being any Scheme for their distribution, the protection of Article 31C was not available. It was also submitted that the various provisions of the

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Amendment Acts violated Articles 14 and 21 of the Constitution.

A learned Single Judge of the High Court allowed the petitions in part and held sub-sections (4) and (5) of Section 4, Section 14-SS, Section 14-T(5) and Section 17(2) were un-

constitutional. The decision of the learned Single Judge was challenged and the Division Bench in its judgment held that Sections 2(7), 3A and 14V were ultra vires of Article 300A of the Constitution. The said decision is challenged by the State as well as the writ petitioners and other land owners.

On behalf of the State it was submitted that in considering the validity of a land reform law, the adequacy or inadequacy of an amount payable on vesting of excess/surplus land cannot be questioned. It was also pointed out that the validity of West Bengal Land Reforms Act, 1955 as amended upto 1972, has been upheld by this Court in Sasanka Sekhar Maity and others vs. Union of India and others, (1980) 4 SCC 716. It was submitted that the provisions of 1980, 1981 and 1986 amendments were protected by Articles 31A, 31B and 31C of the Constitution. It was submitted that agrarian land reforms laws may encompass non-agricultural land also in addition to agricultural land.

After hearing the parties, we are of the view that these

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matters involve the following substantial questions of law as to the interpretation of the Constitution:

- (i) The scope and content of Article 300A in particular whether a law contemplated therein has to conform Article 14 and/or any facet of Article 14 of the Constitution;
- (ii) the extent of protection available in respect of law which is challenged under Article 300A in the context of the protective umbrella of Articles 31A, 31B and 31C of the Constitution.
- (iii) When the scope of agrarian reform law is altered by amendment of the meaning of expressions "estate", "rights", "proprietor", "sub-proprietor", "tenure holder", "raiyat and under raiyat" and "other intermediaries" (contrary to their meaning in 31A(2) of the Constitution) thereby covering non-agricultural

lands including factories and mills, whether the protection of Article 31A will be available.

(iv) The constitutional validity of Amendments repeatedly and gradually reducing the ceiling area, thereby denying reasonable compensation for the land which was held within ceiling limit as per the original ceiling Legislation, which render the second proviso to

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Articles 31A, 31B and 31C nugatory.

We accordingly direct these matters be placed before the Hon'ble the Chief Justice of India for being listed before an appropriate Bench.

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Writ Petition (C)No.199 of 2003

It is submitted by both the counsel that this petition has become infructuous. It is dismissed accordingly.

C.A.No.8355/2004, SLP(C)Nos.4248 and 18690 of 2004

These case are delinked as they are stated to involve a different issue. List these cases separately after two weeks.

( Pawan Kumar )  
Court Master

( M.S. Negi )  
Court Master