

A SPECIAL OFFICER AND COMPETENT AUTHORITY
U.L.C. AND ANR.

v.
P.S. RAO

AUGUST 28, 2000

B [M. JAGANNADHA RAO AND DORAISWAMY RAJU, JJ.]

Urban Ceiling and Regulation Act, 1976 :

C *Ss.10 and 20—Excess land—Vesting of in State—Exemption—G.O. dated 31.10.1988—Liberty to land owner to seek exemption notwithstanding a vesting order—G.O. upheld by Supreme Court—Application for clarification in respect of land possession whereof has not been taken—Held, the position has been clearly explained by the High Court holding that the exemption granted under the G.O. will be attracted to any excess land in respect of which at least*
D *the proceedings under Chapter III have not come to an end.*

CIVIL APPELLATE JURISDICTION :I.A. No. 2.

IN

E Special Leave Petition (C) No. 1662 of 2000.

P.P. Rao, B. Sridhar, Y. Subba Rao and Ms. L.S.P. Roopa and K. Ram Kumar for the Petitioner.

F Bhimrao Naik, C. Hanumantha Rao and S. Udaya Kumar Sagar for the Respondent.

The following Order of the Court was delivered :

G In the order passed by this Court on 17.1.2000 dismissing the SLP by a reasoned order, this Court held that, notwithstanding the fact that a vesting order was passed under the provisions of the (Urban Land Ceiling & Regulation) Act, 1976, it would be open to the owner of the land whose land had so vested, to seek exemption under the provisions of the Act. In the facts of that case, the G.O. issued by the Government granting exemption was issued on 31.10.88 subsequent to the order of vesting on 5.10.87 notice for surrender was issued by the Government on 16.4.88 and G.O. Granting exemption was issued on 31.10.1988 Learned Single Judge and the Division Bench held that the G.O.

could be taken advantage of by the respondent even though vesting order had been passed. This order was upheld by this Court against the judgment dated 17.1.2000 mentioned above.

The present application for clarification has been filed by the State of Andhra Pradesh for clarifying the position as to whether if possession had not been taken, pursuant to the order of vesting, the owner of the land had a right to seek exemption from the provisions of the Act under Section 20 or under Section 10, by virtue of the G.O. issued by the Government.

It will be noticed that in order of the Division Bench of the High Court, this position has been clearly explained. The Bench said that "the question of retrospectivity of the exemption order does not really arise for the reason that in the proceedings under Chapter III of the Act are still pending, may be set the final stage". The Division Bench further observed that :

"Be that as it may, in the present case, the exemption order which is of general nature is under Section 20(1)(a), and it was issued after the vesting order under Sec. 10(3) of the Act was published. That the exemption could be granted even after vesting, being the proposition definitely laid down by the Supreme Court and this Court, there is no reason why such exemption shall not have the effect of taking the land out of the purview of the Act so long as the proceedings under the Chapter III have not been concluded in their entirety".

The Division Bench further observed as follows :

"This is yet another consideration, which weighs with the Court to hold that the exemption granted under G.O. 733 will be attracted to any excess land in respect of which at least the proceedings under Chapter III have not yet come to an end."

We fully endorse the view expressed by the Division Bench of the High Court as extracted above.

We are, however, not deciding a situation where possession has been taken over and where third party rights have not intervened.

With the above clarification, the I.A. is disposed of.

R.P.

I.A. disposed of.