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SUDAMA SINGH & ORS. ETC.

v.

DEEPAK MOHAN SPOLIA & ORS. ETC.

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(Civil Appeal Nos. 21806-21807 of 2017)

DECEMBER 12, 2017

[KURIAN JOSEPH AND AMITAVA ROY, JJ.]

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*Rehabilitation: Demolition of jhuggies (hutments) – Residents of slum clusters claiming right to shelter – Decision of respondent holding that the petitioners were on the right of way and were therefore not entitled to relocation – High Court set aside the decision of respondent declaring it illegal and unconstitutional and directed that in terms of extant policy for relocation of jhuggi dwellers which is operational in view of the orders of the Supreme Court, the cases of petitioners should be considered for relocation – Writ petitioners approached High Court invoking its contempt jurisdiction as they were aggrieved with the non-compliance of the direction in the said judgment – High Court held that only the actual affected writ petitioners were entitled to the benefits of rehabilitation – Held: It is not required that in a public interest litigation all the affected parties should be petitioners – It is a well-accepted principle of class litigation – In the instant case, the petitioners have actually furnished the names of persons who have been identified as the persons affected – Therefore, High Court ought to have extended the benefit to those persons whose names were also furnished by way of annexures to the writ petitions and for whose benefits the High Court rendered the judgment.*

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**Allowing the appeals, the Court**

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**HELD:** It is not required that in a public interest litigation all the affected parties should be petitioners. In the facts of this case, the petitioners have actually furnished the names of persons who have been identified as the persons affected. Hence the High Court ought to have extended the benefit to those persons

whose names have also been furnished by way of annexures to the writ petitions and for whose benefits the High Court has rendered the judgment. The eligibility of the persons referred to in the Annexures will have to be verified and that is what is precisely indicated by the Court in direction No.3 to the effect that the benefit should be available to those eligible persons in terms of the relocation policy. The respondents are directed to implement the judgment in the light of the clarification given in this judgment. [Paras 11 and 12] [545-F-H]

CIVIL APPELLATE JURISDICTION : Civil Appeal Nos. 21806-21807 of 2017.

From the Judgment and Order dated 16.12.2014 of the High Court of Delhi in Contempt Case (C) No. 821 of 2014 and 884 of 2013.

Prashant Bhushan, Amiy Shukla, Shakti Vardhan, Advs for the Appellants.

Atmaram N. S. Nadkarni, ASG, Merusagar Samantray, A. K. Srivastava, Ms. Lhingneivah, B. V. Balramdas, B. Krishna Prasad, Ms. Uttara Babbar, Ms. Akanksha Choudhary, Ms. Bhawana Duhoon, Praveen Swarup, R. K. Singh, Tajinder Virdi, Lokender Kumar, Advs for the Respondents.

The Judgment of the Court was delivered by

**KURIAN, J. 1.** Leave granted.

2. The appellants are aggrieved since the High Court under the Contempt of Courts Act has clarified the judgment dated 11.2.2010 beyond what it has actually been intended to be, according to the appellants.

3. Short facts: Four writ petitions were filed as public interest litigations before the High Court (W.P. No.8904 and connected matters). The prayer in the writ petitions were more or less the same. We shall extract one set of prayers:

“a. Issue a Writ of Mandamus or any other Writ or direction of similar nature to direct the Government of NCT of Delhi to provide

A suitable alternative accommodation to all inhabitants/slum dwellers of New Sanjay Camp.

B. Direct the Respondents to compensate the Petitioners and the other residents for their enormous loss occurred in demolition of their juggies, which had been demolished arbitrarily without their adequate rehabilitation/relocation.”

4. These writ petitions were disposed of by a common judgment dated 11.02.2010. The operative portion of the judgment contained in paragraphs 62 to 64, reads as follows:-

C “62. It is declared that :

(i) The decision of the respondents holding that the petitioners are on the “Right of Way” and are, therefore, not entitled to relocation, is hereby declared as illegal and unconstitutional.

(ii) In terms of the extant policy for relocation of jhuggi dwellers, which is operational in view of the orders of the Supreme Court, the cases of the petitioners will be considered for relocation.

(iii) Within a period of four months from today, each of those eligible among the petitioners, in terms of the above relocation policy, will be granted an alternative site as per MPD-2021 subject to proof of residence prior to cut-off date. This will happen in consultation with each of them in a ‘meaningful’ manner, as indicated in this judgment.

(iv) The State agencies will ensure that basic civic amenities, consistent with the rights to life and dignity of each of the citizens in the jhuggies, are available at the site of relocation.

G 63. With the above directions, these petitions are allowed.

H 64. A certified copy of this order be sent to the Member Secretary, Delhi Legal Services Authority (DLSA) with the request that wide

publicity be given to the operative portion and directions of this judgment in the local language among the residents of jhuggi clusters in the city as well as in the relocated sites. The DLSA will also hold periodical camps in jhuggi clusters and in relocated sites to make the residents aware of their rights. A copy of this order be also sent to the Chief Secretary, Government of National Capital Territory of Delhi, for compliance.”

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5. It is also relevant to note the opening paragraph of the judgment, which reads as follows:-

“1. The writ petitions have been filed under Article 226 of the Constitution of India seeking intervention of this Court to rehabilitate and relocate the petitioners who were residing at various slum clusters in the Capital city to a suitable place and providing them alternative land with ownership rights pursuant to demolition of their ‘jhuggies’ (hutments). The subject matter in these four writ petitions revolves around questions of great importance, inter alia, right to shelter of the petitioners and those represented by them on one hand, and, on the other, slum cluster being on ‘Right of Way’ on which basis the agencies of the State seek to oppose them. Thereafter, all of them were taken up together for hearing and are being disposed of by this common judgment.”

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6. We feel it also apposite to refer to the opening paragraph of the writ petition, which reads as follows:-

“That the petitioners are filing this Writ Petition on behalf of all the residents of New Sanjay Camp Slum Cluster whose jhuggies were demolished by the PWD on 05.02.09 on the ground of making underpass on road no.13 (Okhla estate marg) which goes through Okhla Phase-I and Phase-II without even ensuring that the poor slum dwellers of the jhuggies, who were eligible for rehabilitation/ resettlement, were rehabilitated or relocated on/to some other sites. The petitioners, by way of the present Writ Petition, are seeking proper resettlement of the residents in accordance with the Rehabilitation and Improvement Scheme for Jhuggi Clusters, 2000

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A framed by the Delhi Government and the Master Plan for Delhi-  
2021. The jhuggies of the petitioners and the other residents of  
the New Sanjay Camp Slum Cluster were demolished in total  
contravention of their fundamental right of Right to Shelter under  
Article 21 of the Constitution, the International Conventions and  
Principles of Natural Justice. It is further submitted that the said  
B. jhuggies were demolished in absolute violation of the Delhi Govt's  
Rehabilitation & Improvement Scheme for Jhuggi Clusters, which  
came into effect from 01.04.2000."

C 7. We are informed that a review was attempted by the respondents  
and the same was dismissed. Though, a special leave petition was also  
filed but the same was withdrawn.

D 8. Be that as it may, since the judgment was not complied with in  
its letter and spirit, the writ petitioners approached the High Court invoking  
its contempt jurisdiction.

E 9. The High Court, as per the impugned judgment, has taken a  
view that only the actual affected writ petitioners are entitled to the  
benefits by way of rehabilitation. Paragraphs 12 to 14 contain the relevant  
consideration, which read as follows:-

F "12. I have carefully considered the submissions made by the  
respective sides. I have also gone through the record. In my  
considered opinion, no doubt there were two sets of persons and  
the writ petition was filed in the nature of public interest litigation.  
This is evident from para 1 of the judgment where the court has  
taken note of the petitioners and the persons to whom they represent  
but while giving the benefit, it has confined the said benefit only to  
the petitioners and not to other persons. This clearly shows that  
the court intended to draw a distinction between the petitioners  
and the non-petitioners, whose names are given to the court as  
annexures to the writ petition.

G 13. In my view the use of the word 'petitioners' confines this  
benefit only to the four petitioners and not to any other person

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even though the petitioners may intend to refer to the same. Moreover, none of the persons, whose names are mentioned in the list, have come forward to raise a grievance that they have not been considered or allotted an alternative accommodation.

14. In the light of the aforesaid fact, I feel that the present contempt petition is totally misconceived and accordingly, the same deserves to be dismissed.”

10. Heard Mr. Prashant Bhushan, learned counsel appearing for the appellants and Mr. A.N.S. Nadkarni, learned Additional Solicitor General appearing for the respondents.

11. In our view, the High Court went wrong in referring only to paragraph 62 of the judgment and not to the other relevant considerations leading to the decision which are contained in the judgment itself, which we have extracted above. The whole purpose of paragraph 62 of the judgment is to lend the benefit of the judgment to the affected persons whose names have been furnished in the writ petitions in the form of annexures to the petitions. Paragraphs 63 and 64 in fact makes it very clear. It is not required that in a public interest litigation all the affected parties should be petitioners. It is a well-accepted principle of class litigation. In the facts of the present case, the petitioners have actually furnished the names of persons who have been identified as the persons affected. Hence the High Court ought to have extended the benefit to those persons whose names have also been furnished by way of annexures to the writ petitions and for whose benefits the High Court has rendered the judgment dated 11.02.2010. As rightly pointed out by learned Additional Solicitor General, the eligibility of the persons referred to in the Annexures will have to be verified and that is what is precisely indicated by the Court in direction No.3 to the effect that the benefit should be available to those eligible persons in terms of the relocation policy.

12. The respondents are directed to implement the judgment in the light of the clarification we have given in this judgment. The needful be done within a period of three months from today.

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13. The appeals are allowed to the extent indicated above.
  14. Pending applications, if any, shall stand disposed of.
  15. There shall be no orders as to costs.

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Devika Gujral

Appeals allowed.