



Dr. Sanjeeb K Panigrahi, J.

1. Since the issues raised in all the Writ Petitions referred to above involve common questions of fact and law, they were heard analogously and are being disposed of by this common judgment. For the sake of convenience and effective adjudication, W.P.(C) No. 12057 of 2023 is treated as the lead case.
2. In W.P.(C) No. 12057 of 2023, the Petitioners call in question the action of the Opposite Parties in declining to settle the land in their favour in respect of Shantipalli Basti, situated at Sahid Nagar under the jurisdiction of the Bhubaneswar Municipal Corporation (BMC) and Bhubaneswar Development Authority (BDA). The Petitioners further allege that the authorities have issued instructions through loudspeakers directing them to vacate the basti, without adhering to the safeguards enunciated by the Hon'ble Supreme Court in *Olga Tellis and Others v. Bombay Municipal Corporation and Others*, as well as the principles reiterated by this Court in *(Mrs.) Rutupurna Mohanty, Managing Trustee, Maa Ghara Foundation & 43 Others v. State of Odisha & Others*¹

I. FACTUAL MATRIX OF THE CASE:

3. Succinctly put, the facts of the case are as narrated by the Petitioners in the Writ Petition as follows:

¹ Writ Petition (C) No. 11667 of 2010



- i. The Petitioners assert that their father, grandfather, and great-grandfather have been residing in Shantipalli Basti for several decades, and that they themselves are long-standing slum dwellers. It is contended that the Government of Odisha has launched the 'Jaga Mission' to recognize, upgrade, and rehabilitate slum dwellers across the State, and the Petitioners claim entitlement to its benefits.
- ii. It is stated that presently more than 400 families reside in Shantipalli Basti, all of whom have been identified as slum dwellers. A substantial number of them belong to the Scheduled Castes, Scheduled Tribes, and other weaker sections. For the welfare of the inhabitants, the State Government has established a school as well as two Anganwadi Centres within or adjacent to the basti, where the children of the locality regularly attend.
- iii. The Petitioners further submit that, upon due verification of their residence and identity, the State Administration has issued Ration Cards, Voter Identity Cards, and Aadhaar Cards to the inhabitants. They further assert that the residents have been living in the said locality for three to four generations, with full knowledge of all concerned authorities, including the Bhubaneswar Municipal Corporation (BMC) and the Bhubaneswar Development Authority (BDA).
- iv. It is also averred that the District Administration has provided essential civic amenities to Shantipalli Basti by installing



drinking-water facilities, including water tanks and tube wells. Several residents have also obtained electricity connections, though some still remain without access to electricity.

- v. According to the Petitioners, no notice of any kind has been issued to the inhabitants by the District Administration, BMC, or BDA regarding demolition or eviction. Nonetheless, they allege that they have been orally instructed, through loudspeaker announcements, to vacate the basti and surrender the land, purportedly to facilitate construction of an apartment project by private builders.
- vi. The Petitioners further state that the members of the Self-Help Group, along with other inhabitants of the basti, submitted a representation dated 10.10.2017 before the Chief Secretary, Government of Odisha, seeking rehabilitation in accordance with the applicable Government guidelines. However, despite the lapse of considerable time, no action is stated to have been taken by the competent authority on the said representation.
- vii. In these circumstances, having been left remediless, the Petitioners contend that they were constrained to approach this Court seeking appropriate relief.

II. PETITIONERS' SUBMISSIONS:

4. Learned counsel for the Petitioners earnestly made the following submissions in support of his contentions:



- i. The Petitioners candidly acknowledge that their occupation of the land is technically unauthorized; yet, they urge that their presence in Shantipalli Basti is not a transient encroachment but a habitation deeply rooted in ancestry, spanning over three successive generations. Over the passage of time, the District Administration, fully cognizant of their longstanding settlement, has extended to them various civic amenities and welfare measures, thereby implicitly recognizing them as slum dwellers and integral members of the socio-economic fabric of the locality.
- ii. It is further submitted that the Opposite Parties have not issued any statutory notice of eviction which is a requirement that stands as a mandatory precondition under the Odisha Prevention of Land Encroachment Act. The Petitioners place reliance on the dictum of the Hon'ble Supreme Court in *Ahmedabad Municipal Corporation v. Nawab Khan Gulab Khan & Others*² wherein the Court underscored the obligation of municipal authorities to evolve and implement rehabilitation schemes in a planned and budgeted manner, so as to uphold the right to shelter of the urban poor. The Petitioners, belonging to the most economically vulnerable strata—engaged in humble occupations such as daily labour, driving, and sanitation work and assert that they have been dwelling on the land since approximately 1940. It is thus

² (1997)11 SCC 121



urged that their right to life, as guaranteed under Article 21 of the Constitution, encompasses the right to reside with dignity and security.

- iii. With considerable emphasis, the Petitioners invoke the celebrated Constitutional Bench decision in *Olga Tellis v. Bombay Municipal Corporation*³, wherein it was held that the right to life includes the right to livelihood, and that such livelihood cannot be extinguished save and except by a procedure that is just, fair, and reasonable. The Petitioners contend that the mode and manner adopted by the State of Odisha, the Bhubaneswar Municipal Corporation, the Bhubaneswar Development Authority, and the District Administration—particularly the issuance of oral commands through loudspeaker announcements, bereft of any statutory notice or opportunity of hearing—stands in stark contravention of the principles of natural justice and falls woefully short of the constitutional standards articulated by the Supreme Court. This Court in *Rutupurna Mohanty* (supra) has also held and given the following directions to the State Government so also the Central Government and Municipal Corporations and Municipalities of the entire State:

³ 1985 (3) SCC 545



(1) The Central Government is hereby directed to reallocate funds under the different schemes on the basis of requisition made by the Orissa State Government for effective implementation of the schemes on the basis of the urgent need to rehabilitate and resettle the inhabitants/evictees of the various slums. For this purpose, the State Government, Municipalities and the Municipal Corporations in the entire State shall take effective necessary steps to identify the slums slum dwellers/inhabitants/evictees for the purpose of giving effect to the benefit under the Scheme framed by the Central Government and the schemes required to be framed by the State Government and Urban Local Bodies.

(2) The State Government and the Urban Local Bodies in the entire State viz Municipalities and Municipal Corporations shall take effective measure to draw up a Comprehensive Development Plan (CDP) as envisaged under the provisions of the Orissa Municipal Act and the Orissa Municipal Corporation Act, 2003 and also identify appropriate land Government or private and if necessary acquire the same on the basis of the requirements for the purpose of construction of residential apartments to rehabilitate/resettle the slum dwellers/evictees in the entire State. It is also open for them to identify the urgent need and requirement to provide shelter by constructing residential apartments and make requisition to the Central Government to reallocate funds. The State Government for this purpose shall ear-mark budget allocation to discharge its statutory obligations as provided in both the statutory enactments and see that the schemes are implemented effectively as expeditiously as possible by availing the budget allocation under the aforesaid two schemes for the year 2005-2012 after identifying the places in the



entire State and ensure that the schemes are implemented by sending utilization reports and progress on reforms by the State in order to avail the benefit of the budget allocation already made and also yet to be made for the years 2010-11 and 2011-12.

- iv. The Petitioners, with candour and fairness, concede that their occupation of the said houses in the basti may not enjoy the sanction of formal authorization, yet they assert, with equal force, that their existence in Shantipalli Basti is not the product of a casual trespass but the culmination of an inherited habitation, deeply interwoven with their lineage for over three successive generations. With the passage of time, and in full awareness of this long-rooted settlement, the District Administration has extended various civic amenities and welfare facilities ranging from water supply and ration benefits to voter registration. According to the Petitioners they are staying there and have not merely administrative recognition but an implicit acknowledgment of their identity as slum dwellers and indispensable constituents of the socio-economic tapestry of the area.
- v. The Petitioners further submit that the Opposite Parties have failed to comply with the indispensable procedural safeguard of issuing a statutory notice of eviction, as mandated under the Odisha Prevention of Land Encroachment Act. In support of their plea, they draw sustenance from the authoritative



pronouncement of the Supreme Court in **Ahmedabad Municipal Corporation v. Nawab Khan Gulab Khan & Others (supra)** wherein the Apex Court has emphatically observed that municipal bodies are duty-bound to craft and implement rehabilitation measures in a systematic, planned, and budget-supported manner, so as to preserve and promote the right to shelter of economically marginalized urban dwellers. The Petitioners, belonging to the most vulnerable strata of society who are earning their livelihood through manual labour, driving, sanitation work, and other modest vocations and assert that their families have resided on the land since around 1940. In this backdrop, they contend that the right to life under Article 21, which has been expansively interpreted by constitutional courts, must necessarily encompass the right to reside with dignity and a modicum of security.

- vi. With pronounced emphasis, the Petitioners place reliance upon the seminal judgment of the Constitution Bench in *Olga Tellis v. Bombay Municipal Corporation (supra)* wherein it was unequivocally held that the right to life includes within its sweep the right to livelihood, and that no person can be deprived of such livelihood save through a procedure that is just, fair, and reasonable. The Petitioners allege that the conduct of the State of Odisha, the Bhubaneswar Municipal



Corporation, the Bhubaneswar Development Authority, and the District Administration particularly the issuance of oral directives through loudspeaker announcements, unaccompanied by statutory notice, inquiry or opportunity for representation is fundamentally alien to lawful procedure, violative of the principles of natural justice, and wholly inconsistent with the constitutional jurisprudence laid down by the Supreme Court.

- vii. The Petitioners further aver that the Government of Odisha, with the avowed objective of securing land rights for duly identified slum dwellers and of facilitating their redevelopment, rehabilitation, and up-gradation, has enacted the Odisha Land Rights to Slum Dwellers Act, 2017 and launched the flagship initiative popularly known as the 'Jaga Mission'. According to the Petitioners, they fall unequivocally within the category of slum dwellers contemplated under the statutory framework, having resided in the basti for several decades. Notwithstanding such longstanding habitation and apparent eligibility, they contend that they have been excluded from the conferment of land rights envisaged under the said legislative and administrative scheme.
- viii. It is urged that the residents of Shantipalli Basti are drawn from the most socio-economically distressed strata of the society subsisting on precarious daily wages, living at the



brink of destitution and, in certain instances, forced into begging within the limits of the Bhubaneswar Municipal Corporation. In recognition of the acute vulnerability of such communities, the State has also introduced the 'Odisha Livable Land Mission', aimed at providing homestead land, issuing pattas, and implementing systematic measures for the rehabilitation and upliftment of basti dwellers. The Petitioners submit that, despite the earnest efforts of the Self-Help Group and the inhabitants of the basti, who had articulated their grievances through a detailed representation dated 10.10.2017, the competent authorities have remained in a state of inaction, having neither responded to nor taken any steps on the said representation.

- ix. In the aforesaid premises, learned counsel for the Petitioners earnestly contends that the reliefs prayed for favourable consideration by this Court.

III. SUBMISSIONS OF THE OPPOSITE PARTY NO.4/ BHUBANEWAR MUNICIPAL CORPORATION:

5. Per contra, learned counsel appearing for Opposite Party No.4 has advanced the following submissions with considerable emphasis:

- (i) It is submitted at the outset that the guidelines annexed as Annexure-2 to the writ petition have now lost all operative force, having been rendered redundant and superseded upon the introduction and subsequent implementation of



the Government of India's flagship housing schemes namely the Rajiv Awas Yojana (RAY) and thereafter the Pradhan Mantri Awas Yojana (PMAY). With specific reference to the Odisha Land Rights to Slum Dwellers Act, 2017 and the Rules framed thereunder, learned counsel contends that the Petitioners have proceeded under a fundamental misconception in seeking benefits under the Jaga Mission without undertaking a proper reading, interpretation, or appreciation of the statutory provisions.

- (ii) Adverting to the scheme of Chapter II of the 2017 Act, learned counsel submits that a harmonious and purposive reading of its provisions leaves no manner of doubt that the entitlement of slum dwellers to land rights is expressly conditioned and circumscribed by the parameters stipulated therein. The statutory design embodies a sequential legislative intent that is in the first instance, to identify eligible slum dwellers and confer upon them land rights strictly in accordance with the criteria prescribed under the Act, and, thereafter, upon such conferment and subject to satisfaction of the requisite eligibility norms, to extend to them the benefit of housing assistance under the PMAY framework. Under PMAY, the financial contribution of the Central Government is statutorily limited to a maximum of Rs. 1.5 lakhs per dwelling unit, and the provision of such



housing is contingent upon compliance with the modalities contemplated under the scheme.

- (iii) With regard to the role of the State Government and the State Level Sanctioning and Monitoring Committee (SLSMC), learned counsel further submits that the SLSMC is constituted and empowered under the PMAY framework and chaired by the Chief Secretary, Government of Odisha, has in the exercise of its statutory and policy-making authority, taken a considered decision in its official proceedings. In particular, under Agenda No. 2, which pertains to the contribution to be made by beneficiaries under the Economically Weaker Section (EWS) category for availing dwelling units, the SLSMC has resolved to fix the beneficiary contribution at Rs. 1.5 lakhs per unit under the PMAY scheme. This policy determination is binding and forms an integral component of the financial architecture of PMAY as implemented within the State.
- (iv) It is thus contended that the Petitioners, in seeking to bypass the statutory framework of the 2017 Act and the policy determinations of the SLSMC, cannot claim an absolute or unqualified right either to land or to housing assistance, contrary to the parameters prescribed under the governing schemes and statutes.



- (v) A perusal of the proceedings dated 20.02.2016 reveals that, under Agenda No. 2, the SLSMC had specifically resolved to fix the beneficiary contribution for Economically Weaker Section (EWS) households at Rs. 1.5 lakhs per affordable housing unit. This determination was made after giving due consideration of the estimated construction cost and the annual income parameters applicable to the target group. Accordingly, the contribution of Rs. 1.5 lakh was prescribed for EWS beneficiaries having an annual income not exceeding Rs. 1,80,000/-, as reflected in the proposal placed before the Committee.
- (vi) It is further submitted that a conjoint reading of Agenda No. 4 of the proceedings demonstrates that the Committee approved, inter alia, 22 Detailed Project Reports (DPRs) under the Beneficiary-Led Construction (BLC) component and two DPRs under the *in-situ* Slum Redevelopment (ISSR) projects in Public-Private Partnership (PPP) mode, based on the recommendations of the State-Level Appraisal Committee (SLAC). Under the BLC component, the Government of India's grant per EWS dwelling unit was fixed at Rs. 1.5 lakhs. For a total of 16,205 EWS units, the aggregate beneficiary contribution was projected at Rs. 24,097.30 lakhs, which, when apportioned, works out to approximately Rs. 1.5 lakhs per beneficiary. The State



Government's share and the Urban Local Body's (ULB) share were determined at Rs. 634.58 lakhs and Rs. 1,671.54 lakhs respectively for the said EWS units.

- (vii) In the same Agenda No. 4, the Committee also considered the in-situ Slum Development project under the PPP mode. Under this component, the Government of India's assistance per EWS unit was fixed at Rs. 1 lakh. For the proposed 6,000 EWS dwelling units, the aggregate beneficiary contribution was projected at Rs. 9,000 lakhs, which again translates to approximately Rs. 1.5 lakhs per unit. The State's contribution was to be provided in the form of land, while the PPP partner was to contribute Rs. 19,229 lakhs towards the project.
- (viii) Learned counsels further submits that the Petitioners form part of the categories identified under the Affordable Housing in Partnership (AHP)/In-Situ Slum Redevelopment (ISSR) schemes, and that they have already been surveyed and identified as eligible beneficiaries. Consequently, they have been allotted dwelling units subject to compliance with the prescribed norms, including payment of their beneficiary share. It is asserted that while the majority of the identified beneficiaries have accepted allotment, a few Petitioners—who are either found ineligible under the AHP/BLC categories or have refused to comply with the



beneficiary-share requirement are, nonetheless, occupying the land and refusing to vacate it. This obstruction, it is contended, is hindering the Bhubaneswar Development Authority (BDA) from undertaking the construction of additional dwelling units for other eligible slum dwellers.

- (ix) It is further submitted that the Petitioners' reliance on the Jaga Mission is wholly misconceived, as the said initiative is not the exclusive mechanism for rehabilitation. Under the statutory framework of the 2017 Act and the PMAY guidelines, a two-stage process must be followed—first, conferment of land rights to eligible EWS households, and thereafter, rehabilitation through allotment of dwelling units constructed by the BDA.
- (x) The BDA has filed an affidavit indicating that 849 beneficiaries were identified by the BMC and forwarded for allotment in Shantipalli Basti, out of which 562 dwelling units have already been completed in the first phase. Of these, 462 beneficiaries have already been allotted houses, but many of them have neither vacated the land nor paid their beneficiary contribution, despite being assured financial assistance in the form of bank loans. It is alleged that several beneficiaries continue to remain in unauthorised occupation, taking undue advantage of the subsisting order of status quo passed by this Court.



- (xi) As a result, the construction of the remaining dwelling units, forming part of the second phase, cannot commence until the Petitioners and similarly placed persons vacate the land. Notices have accordingly been issued by the BDA directing them to vacate the slum area to facilitate further construction and rehabilitation of the remaining eligible slum dwellers.
- (xii) It is further submitted that those Petitioners who, for reasons attributable to administrative exigencies prevailing during the implementation of the RAY Scheme, could not initially be brought within the fold of the beneficiary survey, were subsequently, upon re-verification and in view of their displacement occasioned by the public project executed over the Basti land, duly adjudged eligible. Such persons have, without distinction or deviation, been brought into the Pradhan Mantri Awas Yojana (PMAY) framework and allotted dwelling units on parity with all similarly circumstanced beneficiaries. The methodology, rationale, and procedural safeguards underlying such selection stand elaborately delineated in Annexures A/4 and B/4 to the counter-affidavit filed at the earliest instance by Opposite Party No.4.
- (xiii) In addition, the BMC, upon undertaking a comprehensive, door-to-door enumeration exercise has identified no fewer



than 1300 inhabitants of the Basti who fulfil the eligibility parameters prescribed for allotment of housing under the extant governmental schemes. Consequent upon such identification, the Government has earmarked an area measuring Ac. 19.395 dec. in Mouza–Satya Nagar for the construction of multi-storied residential units. It is further clarified that, upon clearance of the encroached/slum/Basti land, all affected persons shall be temporarily rehabilitated in a duly established Transit House, wherein essential amenities including but not limited to transportation, cooked food, and community kitchen facilities shall be provided throughout the notified interim period.

- (xiv) The State Government, in active supervision of the execution process, has contemporaneously rationalised and fixed the mandatory beneficiary share payable by economically weaker section (EWS) households under PMAY, in accordance with the terms, conditions, and financial architecture approved by the competent authorities.
- (xv) The Petitioners' plea for conferment of land rights under the Odisha Land Rights to Slum Dwellers Act, 2017 (popularly known as Jaga Mission) is wholly misconceived. In the present case, the eligible inhabitants are not recipients of in-situ land rights but beneficiaries of a vertical housing



intervention through construction of dwelling units. As such, invocation of the 2017 Act becomes inapposite, the scheme applicable being one of allotment of constructed flats rather than vesting of land.

(xvi) It is relevant to underscore that the overarching and composite policy vision of the State is to secure dignified, pucca housing for all urban poor, whether through conferral of land rights under the 2017 Act or through provision of dwelling units under the PMAY–Urban framework. In both the Beneficiary-Led Construction (BLC) and Affordable Housing in Partnership (AHP) components, beneficiary contribution is statutorily mandated, subject to periodic revision by the State Level Sanctioning and Monitoring Committee (SLSMC). The BMC, in punctilious adherence to such decisions, is extending EWS housing to all beneficiaries identified under successive schemes formulated over time to operationalise the national mandate of “Housing for All.”

(xvii) It is reiterated that, consonant with the applicable scheme architecture, eligible slum dwellers are required to pay the stipulated beneficiary share as a condition precedent to allotment of their respective dwelling units. Recognising the financial vulnerability of many beneficiaries, institutional arrangements have been facilitated by the BDA/BMC to



enable access to credit from banking and financial institutions, thereby mitigating the economic burden and ensuring that inability to pay upfront does not impede the enjoyment of housing rights.

(xviii) Having regard to the factual matrix delineated hereinabove, and as the grievances articulated by the Petitioners stand, in substance and effect, fully redressed through the ongoing statutory and administrative measures, the present Writ Petitions have been rendered infructuous. No surviving issue warrants adjudication. The Writ Petitions, being devoid of merit, are thus liable to be dismissed, with a consequential direction for vacating the interim order of status quo and for requiring the Petitioners to forthwith vacate the subject land and shift to the designated Transit House pending their relocation to the dwelling units already earmarked for them.

(xix) It is further submitted that those petitioners who could not be captured under the survey conducted during the subsistence of the RAY Scheme, but who were subsequently found eligible on account of having been displaced or otherwise adversely affected by the developmental activities undertaken in the Basti area have also been duly extended the benefits of the Pradhan Mantri Awas Yojana (PMAY). They have been allotted dwelling units in the same



manner as other petitioners who were originally identified. The entire process, including the criteria and modality adopted for selection of beneficiaries, has been comprehensively delineated in Annexures-A/4 and B/4 to the counter affidavit filed on behalf of Opposite Party No.4 at the first instance.

- (xx) The Bhubaneswar Municipal Corporation, upon conducting a detailed survey, has identified 1300 eligible beneficiaries from the Basti in question to be provided with residential units under the Scheme, as affirmed in the counter affidavit of the Bhubaneswar Development Authority. In furtherance thereof, the Government has already earmarked Ac. 19.395 dec. of land in Mouza-Satya Nagar for construction of the requisite houses/flats. Upon clearance of the encroached/slum/Basti lands, all existing inhabitants shall be relocated to a designated Transit House, wherein necessary minimum facilities—including transportation, cooked food and/or a free kitchen—shall be made available for the prescribed interim period.
- (xxi) The Government is actively pursuing and expediting the implementation of the Scheme and has also determined the beneficiary contribution payable by persons falling within the EWS category under PMAY, in accordance with the prescribed terms and conditions.



- (xxii) The contention of the petitioners regarding allotment of land under the Odisha Land Rights to Slum Dwellers Act, 2017 (Jaga Mission) is misconceived, inasmuch as the eligible persons have already been provided dwelling units/flats constructed pursuant to Government schemes, thereby rendering the question of allotment of land under the 2017 Act inapplicable.
- (xxiii) It is pertinent to emphasise that the overarching objective of the Government is to ensure provision of pucca housing to the urban poor either through conferment of land rights under the Odisha Land Rights to Slum Dwellers Act and Rules, 2017, or through allotment of dwelling units under PMAY-U. In both BLC and AHP components, the beneficiary contribution, as periodically determined by SLSMC is mandatory. The BMC is vigorously implementing Government decisions to ensure that all eligible EWS beneficiaries identified under various schemes at different points of time are covered so as to achieve the Government's objective of "Housing for All."
- (xxiv) It is reiterated that, under the aforesaid scheme, eligible slum dwellers are allotted houses for their rehabilitation upon payment of their beneficiary contribution. In cases of financial incapacity, arrangements have been facilitated through financial institutions/banks, coordinated by



BDA/BMC, to enable such beneficiaries to secure loans and thereby mitigate their economic hardship.

(xxv) In view of the aforesaid facts and circumstances, the grievances raised by the petitioners stand fully addressed, rendering the present Writ Petitions infructuous. No further adjudication is warranted. Accordingly, the Writ Petitions, being devoid of merit, are liable to be dismissed, with a consequential direction to vacate the order of status quo and to require the petitioners to vacate the land in question and shift to the transit accommodation provided for their temporary stay until they are relocated to their allotted dwelling units.

IV. SUBMISSIONS OF THE OPPOSITE PARTY NO.5/ BHUBANESWAR DEVELOPMENT AUTHORITY:

6. Per contra, learned counsel for Opposite Party No.5—Bhubaneswar Development Authority (BDA)—advanced submissions with considerable emphasis, which may be encapsulated as follows:

(i) That the General Administration Department, Government of Odisha, by Notification No.23261 dated 04.11.2016, duly transferred land admeasuring Ac.19.395 dec. situated in Mouza—Satya Nagar in favour of the BDA for the implementation of the *in-situ* Slum Redevelopment (ISSR) Project, christened “Shanti Nagar Awas Yojana.” The project contemplates the construction of 1300 dwelling units (Phase-I: 840 units; Phase-II: 460 units) under the



Public–Private Partnership (PPP) model for the resettlement and rehabilitation of slum dwellers residing in Shantipali Basti.

(ii) That the final list comprising 849 eligible beneficiary households was communicated by Opposite Party No.4 (Bhubaneswar Municipal Corporation) vide Letter No.27078/BMC dated 31.05.2022 (Annexure-D/5 to the BDA's Counter Affidavit). The selection and identification of beneficiaries fall exclusively within the statutory and administrative domain of the BMC, and the BDA has no role therein. Out of 560 dwelling units completed under Phase-I, 462 units have already been duly allotted to the eligible beneficiaries, the particulars of which stand annexed as Annexure-B/5.

(iii) Pursuant to the Minutes of the State Level Sanctioning and Monitoring Committee (SLSMC) held on 06.06.2022, the Committee approved the beneficiary contribution of Rs.1,50,000/- per EWS household towards the allotment of Affordable Housing Units under the Pradhan Mantri Awas Yojana (PMAY), which is in consonance with the applicable guidelines of the scheme.

(iv) Adequate provisions have been made for temporary relocation of affected slum dwellers to designated Transit Houses equipped with the requisite civic amenities to secure their wellbeing during the interregnum until the permanent housing units are handed over.



(v) The land having been lawfully transferred to the BDA for ISSR implementation, substantial progress has already been achieved, including the completion of a considerable portion of Phase-I. However, by virtue of the interim order dated 07.08.2023 directing maintenance of status quo with respect to the petitioners' existing dwellings—which order continues to subsist due to periodic extensions—the progress of the remaining construction has been rendered stagnant. Further, the petitioners' reluctance to shift to transit accommodations is impeding the completion of works of imperative public importance.

(vi) There are many similarly situated residents of Shantipali Basti have voluntarily vacated their structures without demur and have subsequently received allotment of newly constructed dwelling units upon contributing the nominal amount of Rs.1,50,000/-, which has been deliberately kept concessional keeping in view the socio-economic condition of the beneficiaries. Financial support and loan facilities have also been made available to mitigate their initial financial burden.

(vii) The Odisha Land Rights to Slum Dwellers Act, 2017, while conferring certain heritable land rights for residential use, does not envisage or mandate allotment of free dwelling units. The statutory framework does not derogate from the basic requirement under PMAY and analogous schemes that beneficiaries must contribute a stipulated share towards housing costs.



(viii) The petitioners' persistent refusal to cooperate with the authorities and their insistence on free housing, contrary to statutory scheme norms, are obstructing the execution of a project exclusively intended for their socio-economic upliftment. The project has already yielded tangible benefits for numerous other slum dwellers similarly placed, and its progress ought not to be thwarted at the instance of a small non-compliant group.

(ix) In light of the foregoing circumstances, it is prayed that this Court may be pleased to direct the petitioners to extend full cooperation to the concerned authorities, vacate the present site, and shift to the designated Transit Houses so as to facilitate unhindered continuation of construction activities under the ISSR Project. It is further prayed that the petitioners be directed to comply with the terms of the scheme, including payment of the prescribed beneficiary contribution, in larger public interest.

V. COURT'S REASONING AND ANALYSIS:

7. Heard learned counsel for the Parties and perused the materials placed on record.
8. It is true that the Petitioners and their forefathers have been residing in Shantipalli Basti for several decades; however, their occupation of Government land is unauthorized. Long and continuous possession of public land, without vesting of title or formal recognition under the statutory framework, does not confer ownership or indefeasible right to remain in possession. The right to shelter under Article 21 is a right



to reasonable housing and rehabilitation, not a right to trespass or continue illegal occupation. The Supreme Court has consistently held that encroachment on public land cannot be regularized merely on the grounds of long possession, and the State is under a constitutional obligation to reclaim and utilize public land for planned development as enunciated in U.P. *Jal Nigam v. Kalra Properties (P) Ltd*⁴, and *Jagpal Singh v. State of Punjab*⁵.

9. At the very threshold, this Court is persuaded to observe that the actions undertaken by the State of Odisha, the Bhubaneswar Municipal Corporation (BMC) and the Bhubaneswar Development Authority (BDA) are firmly tethered to the statutory architecture of the Odisha Land Rights to Slum Dwellers Act, 2017, fortified by the policy contours of the Pradhan Mantri Awas Yojana (Urban) and duly sanctified by the considered determinations of the State Level Sanctioning and Monitoring Committee (SLSMC).
10. The State has embarked upon a structured, budgeted, and meticulously conceived programme of in-situ redevelopment, aimed at transmuting vulnerable informal habitats into dignified, permanent urban housing. Where a public authority advances a lawful and transparent scheme for large-scale rehabilitation, courts have unfailingly declined invitations to convert the right to shelter into an unyielding shield against development.

⁴ (1996) 3 SCC 124

⁵ (2011) 11 SCC 396



11. The canonical trilogy of *Olga Tellis (supra) Ahmedabad Municipal Corporation v. Nawab Khan Gulab Khan (supra)*, and *Shantistar Builders*⁶ proclaims with clarity that although Article 21 confers a protective mantle over livelihood and shelter which does not crystallize into a perpetual entitlement to remain on public land in derogation of an organised, humane, and publicly beneficial redevelopment scheme. The right to shelter is a right to be protected, not a right to obstruct.

12. Further, Odisha Land Rights to Slum Dwellers Act, 2017, constitutes a transformative legislative endeavour which is an instrument designed to usher slum dwellers from the shadows of informality into the constitutional sunlight of secured tenure, infrastructural adequacy, and regulated urban planning. It envisages, inter alia, (1) the systematic identification of eligible slum dwellers; (2) the conferment of land rights or, where circumstances so warrant, the provision of alternative rehabilitation; (3) the calibrated and phased redevelopment of the notified settlements; and (4) the planning, coordination, and stewardship of such redevelopment through the Urban Local Bodies.

Notably, the statute does not sanction unrestrained perpetuation of encroachments, rather, it provides a structured legislative pathway through which slum dwellers are progressively integrated into a planned, regulated and sustainable urban framework.

⁶ (1990) 1 SCC 520



13. Further, the PMAY framework meticulously articulates the modalities for affordable housing through its ISSR, AHP, and BLC verticals. Central assistance is circumscribed by prescribed ceilings, while the contribution of beneficiaries constitutes an indispensable pillar of the scheme's architectural design. The Union, in its wisdom, expressly reposes in the States and their State-Level Sanctioning and Monitoring Committees which is the plenary authority to calibrate contribution norms, craft the financial architecture, and orchestrate the tempo and trajectory of implementation.

14. The SLSMC, in the scrupulous and decorous discharge of its statutory and administrative responsibilities, after an all-encompassing and discriminating evaluation of project cost, fiscal viability, and the broader indices of affordability, has prescribed the beneficiary contribution at Rs.1,50,000/- in unwavering fidelity to the PMAY's normative architecture. These determinations, grounded in expert judgment and shaped by considered policy discretion, fall squarely within the sphere of executive wisdom to which the writ court, guided by well-settled principles of restraint, will not ordinarily intrude, unless the decision is clearly vitiated by patent unreasonableness and arbitrariness is visible.

15. In *Olga Tellis*, the Supreme Court rendered one of the most resonant and humane articulations of Article 21, recognizing that the right to life extends beyond mere animal existence and embraces the right to livelihood and a modicum of shelter. Yet the judgment, in its proper



doctrinal posture, does not erect an impregnable bastion against eviction. What it insists upon is that any displacement must be effected through a procedure that is fair, just, and humane, coupled with a corresponding obligation on the State to offer meaningful rehabilitation rather than acquiesce in the perpetual continuation of encroachments. Against this constitutional backdrop, the conduct of the State in the present case is not merely compliant, it is conspicuously affirmative. The State has conceptualized a rehabilitation scheme of substantial amplitude, constructed a significant corpus of dwelling units, effectuated large-scale allotments, provided orderly and dignified transit accommodation, and strengthened the financial footing of beneficiaries through structured bank linkages. Such endeavours not only satisfy the threshold envisioned in *Olga Tellis* (supra), indeed, they transcend it, exemplifying a model of governance which seems to be constitutionally scrupulous and administratively compassionate.

16. It is the duty of the State to advance planned and budgeted rehabilitation as articulated in *Ahmedabad Municipal Corporation v. Nawab Khan Gulab Khan* (supra) wherein the Supreme Court exhorted urban authorities to craft and operationalize planned, budgeted schemes for the resettlement of the urban poor, recognizing that such schemes are indispensable for the attainment of socio-economic justice. The Court warned against ad hoc governance and underscored the necessity of systematic resettlement.



17. The scheme placed before this Court is, in every material respect, the very embodiment of that judicial exhortation. It is duly budgeted and financially provisioned, formally sanctioned by the competent authorities, architected in calibrated phases, informed by institutional surveys of substantial rigour, anchored in verified beneficiary lists, and propelled by an overarching statutory mandate that animates its design and implementation.

18. Further, in *Shantistar Builders v. Narayan Totame (supra)* the Supreme Court reaffirmed a foundational tenet of constitutional adjudication i.e. judicial review must remain a sentinel on the *qui vive*, not a substitute for executive governance. When specialized agencies and expert committees are statutorily entrusted with the intricate tasks of planning, supervising, and allotting housing under redevelopment schemes, courts are enjoined to extend calibrated oversight, not to assume the mantle of administration. The crafting and execution of rehabilitation programmes belong to the realm of administrative statesmanship, the assurance of fairness, reasonableness, and constitutional fidelity belongs to the judicial sphere. This doctrine of restraint acquires even greater salience in the present matter, where Phase-I stands substantially completed, hundreds of eligible beneficiaries have already received allotments and the onward progression of the project is hindered only by the intransigence of a few who now seek to arrest a scheme designed for the collective upliftment of many.



19. At the outset, this Court finds no infirmity, either jurisdictional or substantive, in the transfer of Ac. 19.395 decimals of land by the General Administration Department to the Bhubaneswar Development Authority. Such transfer is not a mechanical administrative gesture, but a deliberate executive act effectuating the statutory mandate embodied in the Odisha Land Rights to Slum Dwellers Act, 2017 and the policy architecture of PMAY-Urban. The redevelopment plan undertaken pursuant thereto rises far above the narrow confines of a routine governmental function. It is, in fact, a visionary exercise in urban transformation, intended to replace precarious shanties with durable and dignified dwelling units. The project is animated not merely by bureaucratic necessity but by a larger constitutional aspiration in order to confer stability, dignity, and security upon those who have historically inhabited the margins of the urban fabric. Such a purpose is not only legitimate but luminous; it constitutes a public purpose of the highest order, aligning executive action with constitutional compassion

20. Equally unassailable is the decision of the State Level Sanctioning and Monitoring Committee to fix the beneficiary contribution at Rs. 1.5 lakh. This contribution reflects a carefully calibrated policy choice, informed by a synthesis of statutory guidance, financial viability, and socio-economic pragmatism. The contribution stands harmonised with the structure of PMAY-Urban, which contemplates a combination of Central assistance, State support, and beneficiary



participation. The amount fixed is neither confiscatory nor capricious; rather it is tempered by reason, shaped by financial realism and softened by the availability of institutional credit for those unable to tender the sum upfront.

21. The jurisprudence of judicial review emphasizes that courts are not to venture into the domain of economic decision-making. Where the Executive acts upon expert assessment and uniform standards, judicial review does not mutate into economic second-guessing. In this case, the policy determination bears every hallmark of rationality
22. In so far as the satisfaction of procedural fairness is concerned, the record reveals an administrative process marked not by abruptness but by studied deliberation. The authorities have undertaken a comprehensive enumeration of slum dwellers, identified beneficiaries with precision, issued formal allotment orders, constructed transit houses equipped with essential amenities, and facilitated bank-linked financial support to the economically vulnerable. These measures collectively constitute a rich tapestry of procedural fairness, far exceeding the minimum threshold contemplated in *Olga Tellis (supra)*. The constitutional requirement is fairness, not perfection; what has been exhibited here is fairness in abundance
23. In terms of public interest and proportionality also, the balance tilts decisively in favour of the state. The doctrine of proportionality mandates the judicial balancing of individual hardship against collective welfare. On one side of the scale stands an ambitious,



meticulously structured redevelopment project intended to uplift 1,300 families, many of whom have already received allotments and await occupation of their permanent dwellings. On the other side, are a small number of petitioners who, despite being offered dignified alternatives, resist vacating public land. Their insistence cannot outweigh the imperative of completing a project that is emphatically in the public interest. Allowing individual intransigence to impede a socially transformative urban project would enable private hesitance to prevail over public interest, frustrating the constitutional mandate.

24. The grievance raised by the petitioner regarding the non-service of statutory notice, in the circumstances, devoid of substance. Notice is not an incantation but it is a vehicle of fairness. Where the petitioners have been surveyed, identified as beneficiaries, engaged in the allotment process, and offered transit accommodation, the substantive essence of natural justice stands fully satisfied. The law does not insist upon ritualistic formalism once fairness has been substantively achieved.
25. While ancestral occupation may evoke sympathy, it does not confer a legally enforceable right to perpetuate residence upon public land in defiance of a statutory redevelopment plan. The 2017 Act provides the lawful channel through which entitlements must flow, and heredity cannot supplant legislative design.
26. Insofar as the reliance placed on loudspeaker announcement is concerned, the contention is wholly misconceived. Courts of



constitutional jurisdiction are not swayed by shadows cast by procedural trivialities; they concern themselves with substance rather than semblance, with legal reality rather than forensic rhetoric. The sporadic use of loudspeakers whether to disseminate information or to caution residents cannot, by any stretch of legal imagination, eclipse the rich documentary record reflecting exhaustive surveys, verified beneficiary lists, formal allotments and the provision of dignified transit accommodation. Minor administrative blemishes, even if assumed to exist, cannot be elevated to a pedestal where they vitiate an otherwise structured, humane, and legally impeccable rehabilitation process conceived in the larger public interest.

27.The statutory mandate of the Odisha Land Rights to Slum Dwellers Act, 2017, the policy architecture of PMAY-Urban, the carefully reasoned determinations of the SLSMC, and the luminous guidance of the Supreme Court's jurisprudence together weave a cohesive and compelling tapestry in favour of the State's action. The role of the Court is to ensure that redevelopment proceeds with fairness, not to permit fairness to be weaponized into a tool of perpetual obstruction. In harmonizing individual rights with collective welfare, the constitutional balance tilts undeniably in favour of permitting the State, the BMC, and the BDA to advance this lawful, compassionate, and socially transformative housing initiative, subject always to supervisory safeguards that ensure transparency, humanity, and



justice. In view of the foregoing analysis, the following directions commend themselves for judicial issuance:

- a. The legality of the land transfer to the BMC/BDA and the determinations of the SLSMC including fixation of beneficiary contribution stand affirmed.
- b. The Court records the substantial progress already achieved in Phase-I and recognizes the pressing public interest in commencing and completing Phase-II without further obstruction.
- c. The petitioners shall relocate to the designated transit accommodation, equipped with minimum humane facilities, within a timeframe to be stipulated by this Court.
- d. The BMC and BDA shall extend financial facilitation, including bank-linked credit support, to beneficiaries unable to pay the contribution upfront.
- e. The interim order of status quo shall stand vacated, insofar as it impedes the continuation of construction, upon the petitioners' failure to comply within the prescribed period.
- f. A Monitoring Committee, akin to that envisaged in *Shantistar (supra)* shall be constituted to oversee the fairness of allotments, adequacy of transit facilities, and seamless facilitation of financial support.

28. Accordingly, all the Writ Petitions are disposed of.



29. Interim order, if any, passed earlier in any of the above-mentioned Writ Petitions stands vacated.

(Dr. Sanjeeb K Panigrahi)
Judge

Orissa High Court, Cuttack,
Dated the 14th November, 2025.