

OLGA TELLIS & ORS VS. BOMBAY MUNICIPAL CORPORATION¹

Olga Tellis and Others versus Bombay Municipal Corporation dates back to 1985. The case voices the problems of pavement and slum dwellers. Journalist Olga Tellis, with two pavement dwellers, filed a writ petition against the Bombay Municipal Corporation, which demolished the establishments of pavement and slum dwellers on the orders of the Maharashtra Government. The petitioner argued that the eviction and demolition drive violates the Fundamental Rights of Right to Life and Right to occupation and settlement as enshrined in Articles 21 and 19, respectively.

The Maharashtra Government, citing section 312 of the Bombay Municipal Corporation Act, 1888, which prohibits construction that obstructs streets. Section 314 of the same act empowered the authorities to demolish any such construction. Another petition was filed along with Olga Tellis, which was of slum dwellers of two different slums, arguing that the authority tried to evict them even after having an injunction order.

Question of Law

The major question of law was regarding the eligibility of the petition under Article 32. Since the pavement and slum dwellers have occupied the place illegally according to the BMCA, 1988, whether the fundamental rights of these people can be waived off in specific circumstances. The next question was regarding Article 21, which conferred the right to life and personal liberty. The major contention was whether the right to livelihood would come under the ambit of this fundamental right. The other deliberation was whether the right to settlement and the right to occupation would apply to the slums and pavement dwellers. Further, the court discussed the nature of the concerned section of the BMCA, 1888.

Judgement

The court passed its judgment on 10 July 1985. The judgment held that fundamental rights are absolute and cannot be bargained away. Thus, even if the slum dwellers' occupation of the streets does not abide by the law, their fundamental rights cannot be ceased. The court held that the Right to Life includes various other rights of which the Right to livelihood is one. The judges explicitly stated that means of sustenance are necessary for living a life and thus, such eviction and demolition is a violation of Article 21. Considering the economic conditions of the slum and pavement dwellers, the court held that in this case, the actions of BMC are unconstitutional and a violation of Article 19. Regarding the nature concerned sections of the BMCA, 1988, the court affirmed that the provisions are not illegal, but they should be exercised with great care, only when there is no other option left. The court in Olga Tellis & Ors vs Bombay Municipal Corporation concluded

¹ AIR 1986 SUPREME COURT 180

that the BMC should provide an eviction notice one month before eviction, as well as offer other places to these people.