A

UNION OF INDIA ETC.

v.

VALLURI BASAVAIAH CHAUDHARY ETC. ETC.

May 1, 1979

B [Y. V. CHANDRACHUD, C.J., P. N. BHAGWATI, V. R. KRISHNA IYER, V. D. TULZAPURKAR AND A. P. SEN, JJ.]

Constitution of India 1950. *Art.* 252(1)—*Term 'legislature' therein means only the House or Houses of Legislature and not the Governor—'An Act of Legislature', 'A legislative Act', 'A resolution of the House', 'Bill'—Difference between.*

C

The Urban Land (Ceiling and Regulation) Act 1976—*Whether ultra vires Parliament so far as State of Andhra Pradesh is concerned—Inclusion of State of Rajasthan in Schedule I of the Act and categorisation of the urban agglomerations of the cities and towns of Jaipur and Jodhpur in category 'C' and Ajmer, Kota and Bikaner in Category 'D' whether beyond legislative competence of Parliament—Existence of a master plan not a sine qua non for applicability of* D *Act to an urban agglomeration.*

The Andhra Pradesh (Telengana Area) District Municipalities Act, 1956. *S.* 244(1)(c)(*iii*)—*Master plan to designate the land subject to compulsory acquisition.*

The State Legislatures of eleven States, (Andhra Pradesh, Gujarat, Haryana, E Himachal Pradesh, Karnataka, Maharashtra, Orissa, Punjab, Tripura, U.P. and West Bengal) considered it desirable to have a uniform legislation enacted by Parliament for the imposition of a ceiling on urban property for the country as a whole and in compliance with cl. (1) of Art. 252 of the Constitution passed a resolution to that effect.

Parliament accordingly, enacted the Urban Land (Ceiling and Regulation) F Act, 1976. In the first instance, the Act came into force on the date of its introduction in the Lok Sabha i.e. January 28, 1976 and covered the Union Territories and the eleven States which had already passed the requisite resolution under Art. 252(1) of the Constitution, including the State of Andhra Pradesh. Subsequently, the Act was adopted, after passing resolutions under Art. 252(1) of the Constitution by the State Legislatures of Assam, Bihar, Madhya Pradesh, Manipur, Meghalaya and Rajasthan. The Act is in force in seventeen States and all G the Union Territories in the country.

The primary object and the purpose of the Urban Land (Ceiling and Regulation) Act, 1976 was to provide for the imposition of a ceiling on vacant land in urban agglomerations, for the acquisition of such land in excess of the ceiling limit, to regulate the construction of buildings on such land and for matters connected therewith, with a view to preventing the concentration of urban land in the hands of a few persons and speculation and profiteering therein, and with H a view to bringing about an equitable distribution of land in urban agglomerations to subserve the common good, in furtherance of the Directive Principles of Articles 39(b) and (c).

The legislation falls under Entry 18, List II of Seventh Schedule of the Constitution, which refers to 'Land, that is to say, rights in or over land, etc.' The State Legislatures alone are competent to enact any legislation relating to land of every description including lands situate in urban areas.

The resolutions passed by the State Legislatures, vested in Parliament the power to regulate by law, the imposition of a ceiling on urban immovable property and acquisition of such property in excess of this ceiling, as well as in respect of 'all matters connected therewith and ancillary or incidental thereto.'

In writ petitions filed by the respondents, the High Court being of the view that the term 'legislature' in Art. 252(1) of the Constitution comprises both the Houses of Legislature, (the Legislative Assembly and the Legislative Council) and the Governor of the State, struck down the Act on the ground that the Parliament was not competent to enact the impugned Act for the State of Andhra Pradesh inasmuch as the Governor of Andhra Pradesh did not participate in the process of authorisation for the passing of the Act by the Parliament.

The High Court observed that since two distinct terms 'legislature' and 'Houses of Legislature' were used in the same article they must, as a matter of construction, bear different meanings, and The Urban Land (Ceiling and Regulation) Act 1976 is *ultra vires* the Parliament so far as the State of Andhra Pradesh is concerned. It also held that even assuming the Act is in force in the State, it is not applicable to Warangal because there was no master plan prepared in accordance with the requirements of s. 244(1)(c) of the Andhra Pradesh (Telengana Area) District Municipalities Act, 1956.

In the connected writ petition under Art. 32, the question raised was whether the inclusion of the State of Rajasthan in Schedule I to the Urban (Land Ceiling and Regulation) Act, 1976 and the categorisation of the urban agglomeration of the cities and towns of Jaipur and Jodhpur in category 'C' and Ajmer, Kota and Bikaner in category 'D' therein is beyond the legislative competence of Parliament and, therefore, the Act is liable to be struck down to that extent.

In the appeals to this Court, it was contended on behalf of the appellant, that the term 'legislature' in Art. 252(1) must, in the context, mean the House or the Houses of Legislature, as the case may be and it does not include the Governor. The key to the interpretation of the first part of cl. (1) of Art. 252 lies in the words 'to that effect', and they obviously refer to the 'desirability' of Parliament making a law on a State subject. It was pointed out that though the Governor is the component part of the State Legislature under Art. 168, he is precluded by the terms of Art. 158(1) from being a member of either House of Parliament or of a House of Legislature of any State. Not being a member of the House or Houses of Legislature of a State, as the case may be, the question of his participation, in the proceedings of the State Legislature in passing a resolution under Art. 252(1) does not at all arise. To concede to the Governor the power to participate in the process of authorization for the passing of a law by the Parliament on a State subject under Art. 252(1), as the High Court had done, or to the process of ratification of a constitutional amendment by the State Legislature under proviso to Art. 368(2) to a constitutional amendment by the Parliament under Art. 368(1), would create a dangerous situation and would be destructive of the constitutional system which is based on the Westminster model under which the Governor is only the constitutional head of the state.

A The Parliament being invested with the power by resolution passed under the first part of Art. 252(1) by as many as eleven states, to legislate on the subject i.e. to make a law for the imposition of a ceiling on immovable property, it had the competence to so structure the Act that it was capable of being adopted by other States under the second part of Art. 252(1). A *fortiori*, the specification of the State of Rajasthan by which the Act may be adopted, as well as the categorisation of the urban agglomerations therein to which it may B apply, had to be there.

Allowing the appeals and dismissing the writ petition;

HELD : 1 (a) Declared that the Urban Land (Ceiling and Regulation) Act 1976 a law enacted by the Parliament by virtue of its powers under Article 252(1) is and has always been in force in the State of Andhra Pradesh with C effect from January 28, 1976. [831D]

(b) Declared that the Act extends to the Urban agglomerations of Warangal. [831D]

(c) The Act applies to the States of Rajasthan with effect from March 9, 1976. [831D]

D 2. Art. 252 appears in Part XI headed 'Relations between the Union and the States' and occurs in Chapter I relating to 'Legislative Relations', i.e., dealing with the distribution of legislative powers between the Union and the States. Our constitution though broadly federal in structure is modelled on the British Parliamentary system, with unitary features. Parliament may assume legislative powers (though temporarily) over any subject under Art. 249, by a two third vote that such legislation is necessary in 'the national E interest', while a Proclamation of Emergency under Art. 352 is in operation, Parliament is also competent under Art. 250 to legislate with respect to any such matter in the State List. Art. 251 makes it clear that the legislative power of the State legislatures to make any law which they have power under the Constitution to make, is restricted by the provisions of Articles 249 and 250, but, if any law made by the legislature of a State is repugnant to any provision of a law enacted by the Parliament, the law made by Parliament shall prevail F and the law made by the State legislature to the extent of repugnancy shall not be valid so long as the law enacted by Parliament is effective and operative. [812H-813C]

3. While Art. 263 provides for the creation of an Inter-State Council for effecting administrative co-ordination between the States in matters of common interest, Art. 252 provides the legislative means to attain that object. [813F]

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4. The effect of the passing of a resolution under cl.(1) of Art. 252 is that Parliament, which has no power to legislate with respect to the matter which is the subject of the resolution, becomes entitled to legislate with respect to it, and the State legislature ceases to have a power to make a law relating to that matter. After the enactment of a law by the Parliament under this Article, it is open to any of the other States to adopt the Act for such State by merely H passing a resolution to that effect in its legislature, but the operation of the Act in such State cannot be from a date earlier than the date of the resolution passed in the Legislature adopting the Act. [813E, F]

5. The question as to whether or not there is surrender by the State Legislature of its power to legislate, and if so, to what extent, must depend on the language of the resolution passed under Art. 252(1). [813G] A

M/S. R.M.D.C. (Mysore) Private Ltd. v. *The State of Mysore* [1962] 3 SCR 230 referred to :

6. Article 252(2) specifically lays down that after Parliament makes an Act in pursuance of the resolution, such Act cannot be amended or repealed by the State Legislature even though the matter to which the Act of Parliament relates was included in List II of the Seventh Schedule of the Constitution. [813H] B

7. Art. 252(1) is in two parts. The first part of the Article is only introductory the second is the operative part. The first part merely recites about the "desirability" of the Parliament legislating on a subject in respect of which it has no power to make laws except as provided in Articles 249 and 250. The words "to that effect" in the first part, therefore, refer to the 'desirability' for effecting administrative control by the Parliament over two or more States in respect of matters of common interest. Thus the word 'legislature' in the first part of Art. 252(1), in the context in which it appears, cannot mean the three component parts of the State Legislature contemplated by Art. 168, but only the House or Houses of Legislature, as the case may be, i.e. excluding the Governor. [815D, 815H-816A] C D

8. The High Court had completely overlooked the fact that there is a clear distinction between 'an Act of legislature,' 'a legislative act' and 'a resolution of the House. [816B]

9. It is quite clear from an enumeration of the powers, functions and duties of the Governor, that he cannot, in the very nature of things, participate in the proceedings of the House or Houses of Legislature, while the State Legislature passes a 'resolution' in terms of Art. 252(1), he not being a member of the legislature under Art. 158. [817C] E

10. The right of the Governor to send messages to the House or Houses of the Legislature under Art. 175 (2), with respect to a Bill pending in the legislature or otherwise, normally arises when the Governor withholds his assent to a Bill under Art. 200, or when the President, for whose consideration a Bill is reserved for assent, returns the Bill withholding his assent. [817E] F

11. A 'Bill' is something quite different from a 'resolution of the House' and, therefore, there is no question of the Governor sending any message under Art. 175 (2) with regard to a resolution pending before the House or Houses of the Legislature. [817F] G

12. The constitutional requirement under proviso to Art. 368 (2) of a ratification by the legislature of not less than one half of the States is that so far as the State legislatures are concerned, it requires that a resolution should be passed ratifying the amendment. Such a resolution requires voting, and the Governor never votes upon any issue. [818E]

Jatin Chakravarty v. *Shri H. K. Bose* A.I.R. 1964 Cal. 500 approved. H

13. What is true of a ratification by the State legislatures under proviso to Art. 368(2), is equally true of a resolution of the House or Houses of the

A Legislature under Art. 252(1). The Governor, nowhere comes in the picture at all in those matters. [818F]

14. The absence of the words 'unless the context otherwise requires' in Art. 168, cannot control the meaning of the term 'legislature' in Art. 252(1). The term 'legislature', in the context in which it appears, can only mean the House or Houses of Legislature, as the case may be. [819C, D]

B

15. The subject matter of Entry 18, List II of the Seventh Schedule i.e. 'land' covers 'land and buildings' and would, therefore, necessarily include 'vacant land.' The expression 'urban immovable property' may mean 'land and buildings' or 'buildings' or 'land'. It would take in lands of every description i.e. agricultural land, urban land or any other kind and it necessarily includes vacant land. [820G-H]

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16. Before the Act was introduced in the Lok Sabha on January 28, 1976 it was preceded by State wise deep consideration and consultation by the respective States, including the State of Andhra Pradesh. A working Group was constituted and in its report it proposed the imposition of a ceiling on urban immovable property and defined 'urban area' to include the area within the territorial limits of municipalities or other local bodies and also the peripheral
D areas outside the said limits. The Govt. prepared a Model Bill in pursuance of the Report and a copy of each of the Report of the working Group and the Model Bill was placed on the table of Parliament. The said documents were forwarded to the State Government of Andhra Pradesh, besides other State Governments for consideration by the State Legislatures before they passed a resolution under Art. 252(1). [821A-C]

E 17. The State Legislatures were, therefore, aware of the position when they passed a resolution authorising the Parliament to make a law in respect of urban immovable property. Their intention was to include the lands within the territorial area of a municipality or other local body of an urban area and also its peripheral area. The concept of ceiling on urban immovable property and the nature and content of urban agglomeration ultimately defined by s. 2(n) of the impugned Act, was, therefore, fully understood by the State Gov-
F ernments. [821D-E]

18. It is but axiomatic that once the legislatures of two or more states, by a resolution in terms of Art. 252(1), abdicate or surrender the area i.e. their power of legislation on a State subject, the Parliament is competent to make a law relating to the subject. It would indeed be contrary to the terms of Art. 252(1) to read the resolution passed by the State Legislature subject to any
G restriction. The resolution, contemplated under Art. 252(1) is not hedged in with conditions. In making such a law, the Parliament was not bound to exhaust the whole field of legislation. It could make a law, like the present Act, with respect to ceiling on vacant land in an urban agglomeration, as a first step towards the eventual imposition of ceiling on immovable property of every other description. [822B-D]

19. Under the scheme of the Act the imposition of a ceiling on vacant land
H in urban agglomeration does not depend on the existence of a master plan. The definition of 'urban land', as contained in s. 2(o) of the Act is in two parts, namely (i) in a case where there is a master plan prepared under the

law, for the time being in force, any land within the limits of an urban agglomeration and referred to as such in the master plan, is treated to be urban land, and (2) in a case where there is no master plan, or the master plan does not refer to any land as urban land, any land within the limits of an urban agglomeration and situate in any area included within the local limits of a municipality or other local authorities is regarded as such. The existence of a master plan within the meaning of s. 2(h) is, therefore, not a *sine qua non* for the applicability of the Act to an urban agglomeration. [824D-F]

20. A master plan prepared by a municipality may or may not contain a proposal for compulsory acquisition of land, or any descriptive matter or map to illustrate a scheme for development. Mere absence of such proposal for compulsory acquisition or a map or descriptive matter would not be tantamount to there being no master plan. A master plan may include proposals for development of areas required to be covered by s. 244, sub-s.(1), cl.(c) contiguous and adjacent to the municipal limits of a city or town, but may not designate the land to be compulsorily acquired, the absence of which would not invalidate the scheme. This is because the municipality has always the power under s. 250 of the Act to acquire the land required for implementation of such scheme. [825E-F]

21. The revised master plan prepared for Warangal does, as it should provide for various development schemes, it also designates the lands subject to compulsory acquisition. Even, if it were not so, the master plan prepared under s. 244, sub-s.(1), cl.(c) did not cease to be 'a master plan prepared in accordance with the law for the time being in force', within the meaning of s. 2(h) of the Act, in relation to the town of Warangal. The Act is, therefore clearly applicable to the urban agglomerations of Warangal and it extends not only to all the lands included within the local limits of the Warangal Municipality but also includes the peripheral areas specified i.e. one kilometre around such limits. [825G-826A]

22. The Parliament having been invested with powers to legislate on a State subject, by resolutions passed by Legislatures of two or more States under Art. 252(1) has plenary powers to make suitable legislation. It follows, as a necessary corollary, that the Act passed by the Parliament under Art. 252(1) can be so structured as to be capable of being effectively adopted by the other States. Article 252(1) undoubtedly enables the Parliament to make a uniform law. The Act so passed would automatically apply to the States, the legislatures of which have passed a resolution in terms of Art. 252(1), and at the same time it must be capable of being adopted by other States which have not sponsored a resolution, i.e. the non-sponsoring States. The second part of Art. 252(1) will be meaningful only if it were so interpreted otherwise, it would be rendered wholly redundant. [830A-C]

23. The Act would automatically apply from the date of its application to those States which had passed the resolution in terms of the first part of Art. 252(1), and would extend to the adopting States from the date of the resolutions passed by the legislatures of such States. The Parliament had, therefore, in fact and in law, competence to legislate on the subject of the imposition of ceiling on urban immovable property, and the Schedule to the Act cannot therefore, be struck down in relation to the State of Rajasthan. [830F]

24. In a law relating to the imposition of ceiling on vacant land in urban agglomerations throughout the territory of India, it was competent for the Parliament under Entry 18, List II of Seventh Schedule not only to have the States specified in the Schedule to the Act where the law will extend, but also include the categorisation of urban agglomerations in respect of the whole of the territory of India. [830E]

CIVIL APPELLATE JURISDICTION : Civil Appeal Nos. 1896/76, 265-300/77 and 29-38/77 and 5/77.

(From the Judgment and Order dated 3-12-1976 of the Andhra Pradesh High Court in Writ Petition Nos. 1634/76, 2068, 2426, 2477, 2585, 3026, 2914, 2918, 2926, 2965, 3471, 2517, 2522, 2581, 2597, 2401, 2461-2462, 2465, 2469, 2485, 2507, 2877, 2949 3213, 3469, 2492, 2509, 2513, 2514, 2520, 2523, 2818, 2935, 2951 and 2936 of 1976, 2509, 2513, 2514, 2520, 2523, 2818, 2932, 2935, 2936 and 2951/76 and 2492 of 1976).

AND

WRIT PETITION NO. 350 OF 1977

(Under Article 32 of the Constitution)

S. V. Gupte, Attorney General of India (1896/76), *U. R. Lalit* (1896/76) *R. N. Sachthey, Girish Chandra, K. N. Bhatt* (1896/76) *Miss A. Subhashini* for the Appellants in C.As. 1896 and 265-300/77 for Respondent No. 1 in W.P. 350/77 and for the Union of India in C.As. 29-38/77 and Respondent No. 4 in C.A. 5/77.

V. M. Tarkunde, K. K. Mehrish, S. M. Jain and *S. K. Jain* for the Petitioner in W.P. 350/77.

T. V. S. Narasimhachari and *M. S. Ganesh* for the Appellant in CAs. 5 and 29-38/77.

K. K. Venugopal, Addl. Sol. Genl. and *S. S. Khanduja* for Respondents 2-3 in W.P. 350/77.

B. Kanta Rao for RR 1–50, 53–66, 68–83, 85–91, 93–95, 97–100 and 112–114 in C.A. 1896/76.

Vepa P. Sarathi and *B. Parthasarathi* for RR 28 and 53 in C.A. 276/77.

P. Ram Reddy, A. V. V. Nair and *Subodh Markendaya* for the other appearing Respondents in C.As. 279, 280–84, 286 and 293/77.

R. K. Mehta, for Advocate General for the State of Orissa.

Badridas Sharma, for Advocate General for the State of Rajasthan.

The Judgment of the Court was delivered by

SEN, J.—These appeals, by certificate, are directed against the judgment and order of the Andhra Pradesh High Court dated December 3, 1976 allowing a batch of thirty-seven writ petitions. The appeals raise an important question, namely, whether the Urban Land (Ceiling and Regulation) Act, 1976 is *ultra vires* the Parliament so far as the State of Andhra Pradesh is concerned. A subsidiary question is also involved as to whether even assuming the Act is in force in the State, it is not applicable to Warangal because there was no master plan prepared in accordance with the requirements of s. 244(1)(c) of the Andhra Pradesh (Telengana Area) District Municipalities Act, 1956.

A further question arises in a connected writ petition under Art. 32 of the Constitution, whether the inclusion of the State of Rajasthan in Schedule I to the Urban Land (Ceiling and Regulation) Act, 1976 and the categorisation of the urban agglomerations of the cities and towns of Jaipur and Jodhpur in category 'C' and Ajmer, Kota and Bikaner in category 'D' therein, is beyond the legislative competence of Parliament and, therefore, the Act is liable to be struck down to that extent.

The State Legislatures of eleven States, namely, all the Houses of the Legislature of the States of Andhra Pradesh, Gujarat, Haryana, Himachal Pradesh, Karnataka, Maharashtra, Orissa, Punjab, Tripura, Uttar Pradesh and West Bengal considered it desirable to have a uniform legislation enacted by Parliament for the imposition of a ceiling on urban property for the country as a whole and in compliance with cl. (1) of Art. 252 of the Constitution passed a resolution to that effect. One merit of such Central legislation is that property owned by families anywhere in India can be aggregated for valuation purposes, and the basis of acquisition and compensation can be uniform all over the country.

The Parliament accordingly, enacted the Urban Land (Ceiling and Regulation) Act, 1976. In the first instance, the Act came into force on the date of its introduction in the Lok Sabha, i.e., January 28, 1976 and covered the Union Territories and the eleven States which had already passed the requisite resolution under Art. 252(1) of the Constitution, including the State of Andhra Pradesh. Subsequently, the Act was adopted, after passing resolutions under Art. 252(1) of the Constitution by the State Legislature of Assam on March 25, 1976, and those of Bihar on April 1, 1976, Madhya Pradesh on September 9, 1976, Manipur on March 12, 1976,

A Meghalaya on April 7, 1976 and Rajasthan on March 9, 1976. Thus, the Act is in force in seventeen States, and all the Union territories in the country.

Schedule I to the Act lists out all States, irrespective of whether or not they have passed a resolution under Art. 252(1) authorising B the Parliament to enact a law imposing a ceiling on urban immovable property, and the urban agglomerations in them having a population of two lacs or more. The ceiling limit of vacant land of metropolitan areas of Delhi, Bombay, Calcutta and Madras having a population exceeding ten lacs falling under category 'A' is 500 sq. mtrs.; C urban agglomerations with a population of ten lacs and above, excluding the four metropolitan areas falling under category 'B' is 1000 sq. mtrs.; urban agglomerations with a population between three lacs and ten lacs falling under category 'C' is 1500 sq. mtrs., and urban agglomerations with a population between two lacs and three lacs falling under category 'D' is 2000 sq. mtrs. The schedule D does not mention the urban agglomerations having a population of one lac and above; but if a particular State which passed a resolution under s. 252(1), or if a State which subsequently adopts the Act, wants to extend the Act to such areas, it could do so by a notification under s. 2(n)(B) or s. 2(n)(A)(ii), as the case may be, after obtaining the previous approval of the Central Government.

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The primary object and the purpose of the Urban Land (Ceiling and Regulation) Act, 1976, 'the Act', as the long title and the preamble show, is to provide for the imposition of a ceiling on vacant land in urban agglomerations, for the acquisition of such land in excess of the ceiling limit, to regulate the construction of buildings F on such land and for matters connected therewith, with a view to preventing the concentration of urban land in the hands of a few persons and speculation and profiteering therein, and with a view to bringing about an equitable distribution of land in urban agglomerations to subserve the common good, in furtherance of the Direc- G tive Principles of Art. 39(b) and (c).

The legislation falls under entry 18, List II of Seventh Schedule of the Constitution, which refers to : 'Land, that is to say, rights in or over land, etc.' Admittedly, the State Legislatures alone are competent to enact any legislation relating to land of every descrip- H tion including lands situate in urban areas. The two Houses of the Andhra Pradesh Legislature, however, passed the following resolution on April 8, 1972 and April 7, 1972 respectively :

"Resolution passed by the Andhra Pradesh Legislative Assembly on the 8th April, 1972. A

RESOLUTION

Whereas this Assembly considers that there should be a ceiling on Urban Immovable Property;

And whereas the imposition of such a ceiling and acquisition of urban immovable property in excess of that ceiling are matters with respect to which Parliament has no power to make law for the State except as provided in Articles 249 and 250 of the Constitution of India; B

And whereas it appears to the Andhra Pradesh Legislative Assembly to be desirable that the aforesaid matters should be regulated in the State of Andhra Pradesh by Parliament by law; C

Now, therefore, in pursuance of clause (1) of Article 252 of the Constitution, this Assembly hereby resolves that the imposition of a ceiling on urban immovable property and acquisition of such property in excess of the ceiling and all matters connected therewith or ancillary and incidental thereto should be regulated in the State of Andhra Pradesh by Parliament by law." D

The record shows that similar resolutions were passed by all the remaining ten State Legislatures. These resolutions vested in the Parliament the power to regulate in the aforesaid eleven States by law the imposition of a ceiling on urban immovable property and acquisition of such property in excess of this ceiling, as well as in respect of 'all matters connected therewith and ancillary or incidental thereto'. The expression 'immovable property' takes in lands of every description, *i.e.* agricultural lands, urban lands or of any other kind. E F

The High Court was of the view that the term 'legislature' in Art. 252(1) of the Constitution comprises both the Houses of Legislature *i.e.*, the Legislative Assembly and the Legislative Council and the Governor of the State. It struck down the Act on the ground that the Parliament was not competent to enact the impugned Act for the State of Andhra Pradesh inasmuch as the Governor of Andhra Pradesh did not participate in the process of authorization for the passing of the Act by the Parliament. It observed, since two distinct terms 'Legislature' and 'Houses of Legislature' were used in the same article they must, as a matter of construction, bear different meanings. In that view, it went on to say that the passing of an Act in terms of the first part of Art. 252(1) is a condition pre-requisite to the passing of a resolution by the House or Houses G H

of Legislature, as the case may be, entrusting to the Parliament the power to legislate on a State subject, stating :

> "In our opinion, *the only way in which the Legislature of a State, consisting of the Governor and one or two Houses of Legislature, as the case may be, can express its view that it is desirable to enact a law regulating a particular matter, is by enacting a law and passing an Act to that effect.* Because it is difficult to conceive of the Legislature consisting of the Governor and the House or Houses of the Legislature of a State acting in any manner than by passing an enactment; no such Act has been passed by the Legislature of the State of Andhra Pradesh consisting of the Governor and the Houses of Legislature of Andhra Pradesh, expressing the desirability of having the matter of imposition of a ceiling on urban lands regulated by Parliament."
>
> (Emphasis supplied)

We are afraid, the construction placed by the High Court on Art. 252(1) cannot be sustained. Article 252(1) of the Constitution reads :

> "If it appears to the Legislatures of two or more States to be desirable that any of the matters with respect to which Parliament has no power to make laws for the States except as provided in articles 249 and 250 should be regulated in such States by Parliament by law, and if resolutions to that effect are passed by all the Houses of the Legislatures of those States, it shall be lawful for Parliament to pass an Act for regulating that matter accordingly, and any Act so passed shall apply to such States and to any other State by which it is adopted afterwards by resolution passed in that behalf by the House, or where there are two Houses, by each of the Houses of the Legislature of that State."

In order to appreciate the content, scope and meaning of the provisions of Art. 252, it is necessary to refer to the scheme of the Constitution. It appears in Part XI headed 'Relations between the Union and the States' and occurs in Chapter I relating to 'Legislative Relations', *i.e.*, dealing with the distribution of legislative powers between the Union and the States. It would appear that our Constitution though broadly federal in structure, is modelled on the British Parliamentary System, with unitary features. Thus,

even apart from emergencies, the Parliament may assume legislative power (though temporarily) over any subject under Art. 249, by a two-third vote that such legislation is necessary in 'the national interest'. While a Proclamation of Emergency under Art. 352 is in operation the Parliament is also competent under Art. 250 to legislate with respect to any such matter in the State list. Article 251 makes it clear that the legislative power of the State legislatures to make any law which they have power under the Constitution to make, is restricted by the provisions of Arts. 249 and 250; but, if any law made by the legislature of a State is repugnant to any provision of a law enacted by the Parliament, the law made by Parliament shall prevail and the law made by the State legislature to the extent of repugnancy shall not be valid so long as the law enacted by Parliament is effective and operative.

Reverting back to Art. 252, it will be noticed that this article corresponds to s. 103 of the Government of India Act, 1935. It empowers the Parliament to legislate for two or more States on any of the matters with respect to which it has no power to make laws except as provided in Arts. 249 and 250.

The effect of the passing of a resolution under cl. (1) of Art. 252 is that Parliament, which has no power to legislate with respect to the matter which is the subject of the resolution, becomes entitled to legislate with respect to it. On the other hand, the State legislature ceases to have a power to make a law relating to that matter. While Art. 263 provides for the creation of an Inter-State Council for effecting administrative co-ordination between the States in matters of common interest, Art. 252 provides the legislative means to attain that object. After the enactment of a law by the Parliament under this article, it is open to any of the other States to adopt the Act for such State by merely passing a resolution to that effect in its Legislature, but the operation of the Act in such State cannot be from a date earlier than the date of the resolution passed in the Legislature adopting the Act. The question as to whether or not there is surrender by the State Legislature of its power to legislate, and if so, to what extent, must depend on the language of the resolution passed under Art. 252 (1) : *M/s. R.M.D.C. (Mysore) Private Ltd.* v. *The State of Mysore.*(1) Clause (2) specifically lays down that after Parliament makes an Act in pursuance of the resolution, such Act cannot be amended or repealed by the State Legislature even though the matter to which the Act of Parliament relates was included in List II of the Seventh Schedule of the Constitution.

(1) [1962] 3 S.C.R. 230.

A The learned Attorney General rightly contends that the term 'legislature' must, in the context, mean the House or the Houses of Legislature, as the case may be and it does not include the Governor. It is urged that the key to the interpretation of the first part of cl. (1) of Art. 252 lies in the words 'to that effect' and they obviously refer to the 'desirability' of Parliament making a law on a State subject. It B is pointed out that though the Governor is the component part of the State Legislature under Art. 168, he is precluded by the terms of Art. 158(1) from being a member of either House of Parliament or of a House of the Legislature of any State. Not being a member of the House or Houses of Legislature of a State, as the case may be, the C question of his participation, it is said, in the proceedings of the State Legislature in passing a resolution under Art. 252(1) does not at all arise. He drew our attention to different provisions of the Constitution, and in particular to proviso to Art. 368(2) which requires a ratification by the Legislatures of not less than one-half of the States to a Bill passed by the Parliament under Art. 368(1) in exercise of its D constituent powers to amend the Constitution. It is urged that to concede to the Governor the power to participate in the process of authorization for the passing of a law by the Parliament on a State subject under Art. 252(1), as the High Court had done, or to the process of ratification of a constitutional amendment by the State Legislatures under proviso to Art. 368(2) to a constitutional amendment by E the Parliament under Art. 368(1), would create a dangerous situation and would be destructive of our constitutional system based on the Westminster model, under which the Governor is only the constitutional head of the State. The contentions of the learned Attorney General must, in our opinion, be accepted.

F In the *State of Bihar* v. *Maharajadhiraja Sir Kameshwar Singh of Darbhanga & Ors.*(1) in repelling the contention that the words 'law' and 'legislature' were deliberately used in Art. 31(3) as a special safeguard, which, in order to ensure that no hasty or unjust expropriatory legislation is passed by a State Legislature, requires for such legislation the assent of both the Governor and the President, Patana- G jali Sastri C.J. observed :

> "It is true that the "Legislature" of a State includes the Governor and that a bill passed by such Legislature cannot become a law until it receives the Governor's assent..... The term "legislature" is not always used in the Constitution as including the Governor, though article 168 makes H him a component Part of the State Legislature. In article

(1) [1952] S.C.R. 889

173, for instance, the word is clearly used in the sense of the "Houses of legislature" and excludes the Governor. There are other provisions also where the word is used in contexts which exclude the Governor. Similarly the word 'law' is sometimes loosely used in referring to a bill. Article 31(4), for instance, speaks of a "bill" being reserved for the President's assent "after it has been passed" by the "legislature of a State" and of "the law so assented to." If the expression "passed by the legislature" were taken to mean "passed by the Houses of the legislature and assented to by the Governor"....then, it would cease to be a "bill" and could not longer be reserved as such. Nor is the phrase "law so assented to" strictly accurate, as the previous portion of the clause makes it clear that what is reserved for the President's assent and what he assents to is a "bill" and not a "law."

This decision really clinches the whole issue.

Article 252(1) is in two parts. The first part merely recites about the "desirability" of the Parliament legislating on a subject in respect of which it has no power to make laws except as provided in Articles 249 and 250. This power to legislate is vested in the Parliament only if two or more State Legislatures think it desirable to have a law enacted by the Parliament on such matter in List II, i.e., with respect to which the Parliament has no power to make laws for the States, and all the Houses of the Legislatures of those States express such desire by passing a resolution to that effect. The Legislatures of those States should not only think it desirable and expedient, but actually pass resolution that the Parliament should regulate the matter in those States, in order to invest the Parliament with the power to legislate on such subject. The passing of such resolution by the State Legislatures of two or more States, is a condition precedent for investing the Parliament with the power to make a law on that topic or matter, and then only it shall be lawful for the Parliament to make a law for regulating that matter accordingly. The law so made or enacted by the Parliament under Art 252(1) will apply only to those States whose Legislatures have passed resolutions under that provision and also to those States which have afterwards adopted the same by resolution passed by the Legislatures of such States in that behalf. It would appear that the first part of the article is only introductory, the second is the operative part. The words "to that effect" in the first part, therefore, refer to the 'desirabiliy' for effecting administrative control by the Parliament over two or more States in respect of matters

A of common interest. Thus, the word 'legislature' in the first part of Art. 252(1), in the context in which it appears, cannot, mean the three component parts of the State Legislature contemplated by Art. 168, but only the House or Houses of Legislature, as the case may be, i.e., excluding the Governor.

B There is a clear distinction between 'an Act of legislature', 'a legislative act' and 'a resolution of the House'. The High Court has completely overlooked this distinction.

The Governor is a constitutional head of the State Executive, and has, therefore, to act on the advice of a Council of Ministers under C Art. 163. The Governor is, however, made a component part of the State Legislature under Art. 164, just as the President is a part of Parliament. The Governor has a right of addressing and sending messages to under Arts. 175 and 176, and of summoning, proroguing and dissolving under Art. 174, the State Legislature, just as the President has in relation to Parliament. He also has a similar power D of causing to be laid before the State Legislature the annual financial statement under Art. 202(1), and of making demands for grants and recommending 'Money Bills' under Art. 207(1). In all these matters the Governor as the consitutional head of the State is bound by the advice of the Council of Ministers.

E The Governor is, however, made a component part of the legislature of a State under Art. 168, because every Bill passed by the State legislature has to be reserved for his assent under Art. 200. Under that article, the Governor can adopt one of the three courses, namely (i) he may give his assent to it, in which case the Bill becomes a law; or (ii) he may except in the case of a 'Money Bill' withhold his assent F therefrom, in which case the Bill falls through unless the procedure indicated in the first proviso is followed, i.e., return the Bill to the Assembly for reconsideration with a message, or (iii) he may (subject to Ministerial advice) reserve the Bill for the consideration of the President, in which case the President will adopt the procedure laid G down in Art. 201. The first proviso to Art. 200 deals with a situation where the Governor is bound to give his assent when the Bill is reconsidered and passed by the Assembly. The second proviso to that article makes the reservation for consideration of the President obligatory where the Bill would, 'if it became law', derogate from the powers of the High Court. Thus, it is clear that a Bill passed by a State Assembly H may become law if the Governor gives his assent to it, or if, having been reserved by the Governor for the consideration of the President, it is assented to by the President. The Governor is, therefore, one of

the three components of a State legislature. The only other legislative function of the Governor is that of promulgating Ordinances under Art. 213(1) when both the Houses of the State legislature or the Legislative Assembly, where the legislature is unicameral, are not in session. The Ordinance-making power of the Governor is similar to that of the President, and it is co-extensive with the legislative powers of the States legislature.

From an enumeration of the powers, functions and duties of the Governor, it is quite clear that he cannot, in the very nature of things, participate in the proceedings of the House or Houses of Legislature, while the State legislature passes a resolution in terms of Art. 252(1), not being a member of the legislature under Art 158.

The function assigned to the Governor under Art. 176(1) of addressing the House or Houses of Legislature, at the commencement of the first session of each year, is strictly not a legislative function but the object of this address is to acquaint the members of the Houses with the policies and programmes of the Government. It is really a policy statement prepared by the Council of Ministers which the Governor has to read out. Then again, the right of the Governor to send messages to the House or Houses of the Legislature under Art. 175(2), with respect to a Bill then pending in the legislature or otherwise, normally arises when the Governor withholds his assent to a Bill under Art. 200, or when the President, for whose consideration a Bill is reserved for assent, returns the Bill withholding his assent. As already stated, a 'Bill' is something quite different from a 'resolution of the House' and, therefore, there is no question of the Governor sending any message under Art. 175(2) with regard to a resolution pending before the House or Houses of the Legislature.

Similar considerations must also arise with regard to ratification of a Bill passed by the Parliament in exercise of its constituent power of amending the Constitution under Art. 368(1). In *Jatin Chakravorty* v. *Sri Justice H. K. Bose*(1) D. N. Sinha J., as he then was rightly negatived a challenge to the contitutional validity of the Constitution (Fifteenth Amendment) Act, 1963, which amended Art. 217 of the Constitution raising the age of retirement of a Judge of the High Court from 60 to 62 years on the ground that no assent of the Governor in the State of West Bengal was taken, observing :

"A legislature discharges a variety of functions. The House has to be summoned or prorogued, bills have to

(1) A.I.R. 1964 Cal. 500

A be introduced, voted upon and passed, debates take place on important political questions, ministers are interrogated, and so on. *The Governor, though a limb of the legislature does not take part in every such action.* While the Governor summons the House and may prorogue or dissolve it (Art. 174) or address the legislature (Art. 175), *he does not sit in the House or vote upon any issue.* When a Bill has been passed by the House or Houses, Art. 200 requires that it shall be presented to the Governor for assent. The assent of the Governor is necessary, only because the Constitution expressly requires it. *Whenever the assent of the Governor is necessary* or the assent of the President is necessary, *it is specifically provided for* in the Constitution (see Articles 31-A, 200, 201 and 304). *The necessity of such assent cannot be implied, where not specifically provided for."*

(Emphasis supplied)

D Reverting to the constitutional requirement under proviso to Art. 368(2) of a ratification by the legislatures of not less than one-half of the States he observed :

"So far as the State legislatures are concerned, it requires that a resolution should be passed ratifying the amendment. *Such a resolution requires voting, and the Governor never votes upon any issue."* (Emphasis supplied)

The interpretation placed by D. N. Sinha J. upon the proviso to Art. 360(2) in *Jatin Chakravorty's case* (supra) is in consonance with the constitutional system. Any other construction would result F in an alarming situation as constitutional amendments by the Parliament under Art. 368(1), could be held up by the Governor of a State. What is true of a ratification by the State legislatures under proviso to Art. 368(2), is equally true of a resolution of the House or Houses of the Legislature under Art. 252(1). The Governor, in our view, nowhere comes in the picture at all in these matters.

G

It is, however, argued, on behalf of the respondents that both the expressions 'legislature' as well as 'Houses of Legislature' are used in Art. 252 and, therefore, the term 'Legislature' must be understood in the sense in which it is used in Art. 168. In support of the contention, it is said that it is the 'Legislature' which is surrendering its H sovereign legislative functions and, therefore, it must be the legislature, as defined in Art. 168, which should do that, and not a part of the legislature. It is pointed out that Art. 168 does not use the words.

'unless the context otherwise requires'. It is, accordingly, urged that the words 'to that effect' in Art. 252(1) mean that the legislature, meaning the House or Houses of Legislature and the Governor, is desirous that the Parliament should legislate on a State subject. Conceptually, it is said to be the better interpretation of the term 'legislature' in the first part of Art. 252(1).

The respondents' contention in the present appeals is the same as that prevailed in the High Court. The point has already been dealt with by us at length. The contention cannot be accepted because it runs counter to this Court's decision in *Kameshwar Singh's case* (supra). The absence of the words 'unless the context otherwise requires' in Art. 168, cannot control the meaning of the term 'legislature' in Art. 252(1). It was fairly conceded at the Bar that even without these words, a word or a phrase may have a different meaning, if the context so requires, than the meaning attached to it in the definition clause. The term 'legislature' in the context in which it appears, can only mean the House or Houses of Legislature, as the case may be. Learned counsel for the respondents, tries to draw sustenance from s. 103 of the Government of India Act, 1935, which read :

> "If it appears to the Legislatures of two or more Provinces to be desirable that any of the matters enumerated in the Provincial Legislative List should be regulated in those Provinces by Act of the Federal Legislature, and if resolutions to that effect are passed by all the Chambers of those Provincial Legislatures, it shall be lawful for the Federal Legislature to pass an Act for regulating that matter accordingly but any Act so passed may, as respects any Province to which it applies, be amended or repealed by an Act of the Legislature of that Province."

It is submitted that when an Act passed by the Federal Legislature in respect of any of the matters enumerated in the Provincial Legislative List based on the resolution of the Legislatures of two or more Provinces, could be amended or repealed by an Act of the Legislature of that Province, the Governor had necessarily to be consulted at the stage of introduction of a resolution before the Legislature of that Province. There is a fallacy in the argument. The second part of s. 103 of the Government of India Act is replaced by Art. 252(2) of the Constitution which takes away the power of repeal from the State Legislature and entrusts it to the Parliament. When his attention was drawn to the fact that cl. (2) of Art. 252 of the Constitution

differs from the provisions of s. 103 of the Government of India Act, 1935, the learned counsel did not pursue the point any further. Under Art. 252(2) an amending or repealing Bill must go through the same procedure as prescribed for the original Bill i.e., by the process laid down in cl.(1) of Art. 252. The surrender or abdication of the legislative power of the State Legislature places the matter entirely in the hands of the Parliament.

Next, it is urged that the impugned Act passed by the Parliament was without legislative competence. It is said that the resolution, as passed by the State Legislature, gave authority to Parliament to legislate on a particular subject, i.e., 'ceiling on immovable property', whereas the Parliament contrary to the resolution, passed a law on a different subject i.e., 'ceiling on urban land'. It is pointed out that the Working Group with the Secretary to Government of India, Ministry of Works, Housing and Urban Development, in its report dated July 25, 1970 recommended that the ceiling on urban property should be imposed on the basis of the monetary value of properties and suggested a ceiling of 4 to 5 lacs of rupees. The Prime Minister forwarded the aforesaid report of the Working Group along with a draft Bill, prepared on the basis of its recommendations, to the Chief Ministers of various States, with a view to securing concurrence and authorisation of the State legislatures under Art. 252(1) to enable the Parliament for enacting a uniform law for the whole country. It was said that the State Legislature gave the authorisation to the Parliament on the distinct understanding that there was to be a law for the imposition of ceiling on the basis of valuation of immovable property. It is said that the authorisation was for ceiling on ownership of immovable property and not on area of land. Idea of ceiling, it is said, has been transferred from persons to objects. It is, accordingly, urged that the impuged Act, insofar as it provides for ceiling for acquisition of vacant land by the State was not in conformity with the real intendment of the resolution.

We are afraid, the contention cannot be accepted. It is not disputed that the subject matter of Entry 18, List II of the Seventh Schedule i.e., 'land' covers 'land and buildings' and would, therefore, necessarily include 'vacant land'. The expression 'urban immovable property' may mean 'land and buildings', or 'buildings' or 'land'. It would take in lands of every description, i.e., agricultural land, urban land or any other kind and it necessarily includes vacant land.

The Union of India before the High Court in its counter averred that, before the Act was introduced in the Lok Sabha on January

28, 1976, it was preceded by State-wise deep consideration and consultation by the respective States, including the State of Andhra Pradesh for a period of over five years starting from 1970. A Working Group was constituted under the Chairmanship of the Secretary, Ministry of Works, Housing and Urban Development. The report of the Working Group shows that the proposal was to impose a ceiling on urban immovable property. In its report the said Working Group defined 'urban area' to include the area within the territorial limits of municipalities or other local bodies and also the peripheral area outside the said limits. Such inclusion of the peripheral limits in an urban area was accepted by the Government and a Model Bill prepared in pursuance thereof also contained such a definition. A copy of each of the report of the Working Group and the Model Bill referred to was placed on the table of the Parliament on December 15, 1970 and March 22, 1972 respectively. The said documents were forwarded to the State Government of Andhra Pradesh, besides other State Governments, for consideration by the State Legislatures before they passed a resolution under Art. 252(1). The State Legislatures were, therefore, aware of the position when they passed a resolution authorising the Parliament to make a law in respect of urban immovable property. Their intention was to include the lands within the territorial area of a municipality or other local body of an urban area and also its peripheral area. The concept of ceiling on urban immovable property and the nature and content of urban agglomeration ultimately defined by s. 2(n) of the impugned Act was, therefore, fully understood by the State Governments.

In this Court the Union of India has placed on record an Approach Paper of the Study Group which indicated that the Parliament was faced with several practical difficulties to implement the proposal to place a ceiling on ownership of built-up properties, namely :

> "Firstly, the valuation of such properties is very difficult task, Secondly, it varies from urban area to urban area and within the same area also and might result in inequitable application. Thirdly, in our inflationary situation the values of properties quickly change from time to time. Fourthly, investment by persons in housing and building is like other forms of investment and, subject to certain restrictions, primarily to prevent speculation, needs to be encouraged to serve social purposes. Fifthly, the management of properties which may vest with the government on account of any ceiling would pose serious problems; perhaps, a large number of properties may be in the form of slums or dilapidated

A buildings and in respect of other types of houses it may not be possible to manage or dispose them of economically."

It was, therefore, suggested that ceiling in respect of built-up properties was to be brought about through fiscal and other restrictive measures.

B It is but axiomatic that once the legislature of two or more States, by a resolution in terms of Art. 252(1), abdicate or surrender the area, i.e., their power of legislation on a State subject, the Parliament is competent to make a law relating to the subject. It would indeed be contrary to the terms of Art. 252(1) to read the resolution passed by the State Legislature subject to any restriction. The resolution, C contemplated under Art. 252(1) is not hedged in with conditions. In making such a law, the Parliament was not bound to exhaust the whole field of legislation. It could make a law, like the present Act, with respect to ceiling on vacant land in an urban agglomeration, as a first step towards the eventual imposition of ceiling on immovable property of every other description.

D There is no need to dilate on the question any further in this judgment, as it can be better dealt with separately. It is sufficient for purposes of these appeals to say that when Parliament was invested with the power to legislate on the subject i.e., 'ceiling on immovable property', it was competent for the Parliament to enact the impugned E Act, i.e., a law relating to 'ceiling on urban land'.

In our opinion, therefore, the High Court was clearly in error in holding that the Urban Land (Ceiling and Regulation) Act, 1976, was not applicable to the State of Andhra Pradesh. In reaching that conclusion, it proceeded on the wrong assumption that 'legislature' for purposes of Art. 252(1) means the House or Houses of Legislature, F as the case may be, and the Governor. In consequence whereof, it fell into an error in holding that the State Legislature of Andhra Pradesh could not, in law, be regarded to have authorised the Parliament to enact the impugned Act, in relation to that State, due to the non-participation of the Governor.

G There still remains the question whether the Act is not applicable to Warangal for the reason that there was no master plan prepared in conformity with s. 244(1)(c)(iii) of the Andhra Pradesh (Telengana Area) District Municipalities Act, 1956. The section, so far as material, runs thus :

"244(1)(c) The Master Plan shall include such maps H and such descriptive matter as may be deemed necessary to illustrate the proposals, and in particular :

(i) . . . . . .

(ii) . . . . . A

(iii) designate the land subject to compulsory acquisition under the powers in that behalf conferred by this Act or any other law for the time being in force."

The High Court has clearly erred in holding that the Urban Land (Ceiling and Regulation) Act, 1976 cannot apply to the urban B agglomeration of Warangal. In reaching that conclusion, it observed that under s. 244(1)(c)(iii) the master plan must designate the land subject to compulsory acquisition under the powers in that behalf conferred by the Act or any other law for the time being in force; otherwise, the master plan prepared for the town cannot be treated to be a master plan as prepared in accordance with law. The view C taken by the High Court is wholly unwarranted and proceeds on a misconception of the scheme of the Act.

Section 3 of the Act provides that except as otherwise provided in the Act, on and from the commencement thereof, no person shall be entitled to hold any 'vacant land' in excess of the ceiling limit in the D territories to which this Act applies under sub-s.(2) of s. 1. By s. 4(1)(d), the ceiling limit placed on such land situate in an 'urban agglomeration' falling within category 'D' specified in Schedule I, is fixed at two thousand square metres. An urban agglomeration is made up of the main town together with the adjoining areas of urban growth and is treated as one urban spread. The expression 'vacant E land' is defined in s. 2(q) as meaning land, not being land mainly used for the purpose of agriculture, in an urban agglomeration, but does not include certain categories thereof. The term 'urban land' is defined in s. 2(o) as meaning :

"(o) 'Urban land' means.— F

(i) any land situated within the limits of an urban agglomeration and referred to as such in the master plan; or

(ii) In a case where there is no master plan, or where the master plan does not refer to any land as urban land, G any land within the limits of an urban agglomeration and situated in any area included within the local limits of a municipality (by whatever name called), a notified area committee, a town area committee, a city and town committee, a small town committee, a cantonment board or a panchayat, but does not H include any such land which is mainly used for the purpose of agriculture."

The expression "urban agglomeration", as defined in s. 2(n) of the Act, so far as material, reads :

> (n) "urban agglomeration,—
>
> (A) in relation to any State or Union Territory specified in column (1) of Schedule I, means :
>
> (i) the urban agglomeration specified in the corresponding entry in column (2) thereof and includes the peripheral area specified in the corresponding entry in column (3) thereof; and"

The urban agglomeration of Warangal is specified in Schedule I to the Act. The relevant entry reads :

"States	Towns	Peripheral	Category
(1)	(2)	(3)	(4)
1. Andhra Pradesh	5. Warangal M	1 Km.	D"

It is quite clear that under the scheme of the Act the imposition of a ceiling on vacant land in urban agglomerations does not depend on the existence of a master plan. The definition of 'urban land', as contained in s. 2(o) of the Act is in two parts, namely (1) in a case where there is a master plan prepared under the law for the time being in force, any land within the limits of an urban agglomeration and referred to as such in the master plan, is treated to be urban land, and (2) in a case where there is no master plan, or the master plan does not refer to any land as urban land, any land within the limits of an urban agglomeration and situated in any area included within the local limit of a municipality or other local authorities is regarded as such. The existence of a master plan within the meaning of s. 2(h) is, therefore, not a *sine qua non* for the applicability of the Act to an urban agglomeration. The only difference is that where there is a master plan, the Act extends to all lands situate within the local limits of a municipality or other local authority, and also covers the peripheral area thereof; but where there is no such master plan, its applicability is confined to the muncipal limits or the local area, as the case may be.

It is common ground that there was a master plan prepared for Warangal on October 26, 1949. On September 7, 1963, the Warangal Municipality resolved by a resolution to prepare a fresh master plan and on February 18, 1966, the State Government directed that untill the new plan was prepared, the old master plan should continue. Thereafter, a revised master plan was prepared by the Direc-

tor of Town Planning, Hyderabad after conducting physical and socio-economic surveys and sent to the Municipal Council, Warangal for adoption and approval, in pursuance of its resolution dated September 7, 1963. The Municipal Council by its resolution dated April 30, 1969 approved the same with some modifications. The revised master plan was submitted by the Municipal Council, Warangal to the State Government for sanction under s. 244, sub-s.(1), cl.(d) of the Andhra Pradesh (Telengana Area) District Municipalities Act, 1956. On November 25, 1971, the old master plan was revoked by the State Government and a new master plan sanctioned. The master plan contains proposals for areas required to be covered by s. 244, sub-s.(1), cl.(c), contiguous and adjacent to the municipal limits of Warangal which were under the jurisdiction of various gram panchayats and all such lands were deemed to be lands needed for public purpose within the meaning of the Hyderabad Land Acquisition Act, 1309 Fasli, and the Municipality could under s. 251 of the Andhra Pradesh (Telengana Area) District Municipalities Act, 1956 acquire the lands required for the implementation of the master plan. The learned Attorney General has placed before us the relevant notifications.

The word "shall" in cl. (c) of sub-s. (1) of s. 244 of the Andhra Pradesh (Telengana Area) District Municipalities Act, 1956 in its context and setting, is directory. A master plan prepared by a municipality may or may not contain a proposal for compulsory acquisition of land, or any descriptive matter or map to illustrate a scheme for development. Mere absence of such proposal for compulsory acquisition or a map or descriptive matter would not be tantamount to there being no master plan. A master plan may include proposals for development of areas required to be covered by s. 244, sub-s. (1), cl.(c), contiguous and adjacent to the municipal limits of a city or town, but may not designate the land to be compulsorily acquired, the absence of which would not invalidate the scheme. It is because the municipality has always the power under s. 250 of the Act to acquire the land required for implementation of such scheme.

It appears that the revised master plan prepared for Warangal does, as it should, provide for various development schemes. For ought we know, it also designates the lands subject to compulsory acquisition. Even if it were not so, the master plan prepared under s. 244, sub-s. (1), cl. (c) did not cease to be 'a master plan prepared in accordance with law for the time being in force', within the meaning of s. 2(h) of the Act, in relation to the town of Warangal. The Act, is, therefore, clearly applicable to the urban agglomerations of

A Warangal and it extends not only to all the lands included within the local limits of the Warangal Municipality but also includes the peripheral areas specified, i.e. one kilometre around such limits.

In this group of cases, there is a writ petition filed by Maharao Saheb Bhim Singhji, former ruler of the erstwhile princely State of Kota. It raises the question whether the Parliament had legislative B competence to enact the Urban Land (Ceiling and Regulation) Act, 1976, in relation to the State of Rajasthan. The question involved is common to all the States which subsequently adopted the Act.

The Bill, after it was passed by both the Houses of Parliament, received the assent of the President on February 17, 1976. There C is a schedule annexed to the Act and among the various States specified in the schedule, is the State of Rajasthan with the urban agglomerations of Jaipur, Jodhpur, Ajmer, Kota and Bikaner. Of these, the cities of Jaipur and Jodhpur are declared to be agglomerations belonging to category 'C' while Ajmer, Kota and Bikaner are placed in category 'D'. On March 9, 1976, the State Legislature of Rajas- D than passed the following resolution adopting the Act :

> "Whereas the Legislature of Rajasthan State considers it expedient to provide for the imposition of a ceiling on vacant land in urban agglomerations, for the acquisition of such land in excess of the ceiling limit, to regulate the construction of buildings on such land and for matters con- E nected therewith, with a view to preventing the concentration of urban land in the hands of a few persons and speculation and profiteering therein and with a view to bringing about an equitable distribution of land in urban agglomerations to subserve the common good.
>
> F And whereas the Parliament has no power to make laws for the States with regard to the matters aforesaid except as provided in Article 249 and 250 of the Constitution.
>
> And whereas this Legislature is of the opinion that G aforesaid matter may be regulated in Rajasthan State by the Urban Land (Ceiling and Regulation) Act, 1976 (33 of Central Act of 1976) enacted by the Parliament.
>
> Now therefore the Legislature of Rajasthan State passes the following resolution in pursuance of Article 252:, clause (1) : —
>
> H "Rajasthan State adopts the Urban Land (Ceiling and Regulation) Act, 1976 (33 of Central Act of 1976) for this State"."

When the Bill was introduced in the Lok Sabha on January 28, 1976, it cannot be denied that the State of Rajasthan was not one of the eleven States which had passed a resolution under the first part of Art. 252(1), and the question that arises is whether the Parliament had the legislative competence to enact a law in relation to that State. It is argued that the inclusion of the State of Rajasthan in the Schedule as one of the States specified to which the Act applies, or the categorisation of the various cities and towns of that State, including the town of Kota, was *non est.* It is submitted that the legislature of the State of Rajasthan never authorised the Parliament to enact a law for the imposition of ceiling on immovable properties in that State and, therefore, the Act was still-born in respect of the State of Rajasthan. It is accordingly urged that the Act being legislatively incompetent in so far as the State of Rajasthan was concerned, it could not be adopted by a subsequent resolution passed by the State legislature of Rajasthan on March 9, 1976.

The learned Attorney General, however, tries to meet the challenge to the applicability of the Act to the State of Rajasthan from two aspects. He contends that the Parliament was undoubtedly invested with legislative competence to enact a law for the imposition of a ceiling on urban land for the State of Rajasthan, both under Art. 250 as well as under Art. 252. First of all, he points out that while there was a Proclamation of Emergency in force on February 17, 1976, the Parliament had the power to legislate with respect to any matter in the State List under Article 250, which reads :

> "250. (1) Notwithstanding anything in this Chapter, Parliament shall, while a Proclamation of Emergency is in operation, have power to make laws for the whole or any part of the territory of India with respect to any of the matter enumerated in the State List.
>
> (2) A law made by Parliament which Parliament would not but for the issue of a Proclamation of Emergency have been competent to make shall, to the extent of the incompetency, cease to have effect on the expiration of a period of six months after the Proclamation has ceased to operate, except as respects things done or omitted to be done before the expiration of the said period."

The learned Attorney General is no doubt right in saying that if a Proclamation of Emergency is in operation, under Art. 250(1) the power of the Parliament extends to the making of laws for the whole or any part of the territory of India with respect to any of the matters

enumerated in the State List, but the Act so passed will die out with the revocation of the Proclamation of Emergency, by reason of Art. 250(2) on the expiration of a period of six months after the Proclamation has ceased to operate, except as respects things done or omitted to be done before the expiration of the said period. That conclusion is inevitable from the words "shall cease to have effect" appearing in Art. 250(2).

Now, the further difficulty in accepting the learned Attorney General's contention is that the Parliament never professed to act under Art. 250(1). Although he drew our attention to the second part of the preamble to the Act which reads :

> "AND WHEREAS Parliament has no power to make laws for the States with respect to the matters aforesaid except as provided in Articles 249 and 250 of the Constitution;"

it is amply clear from the third part of the preamble, which reads :

> "AND WHEREAS in pursuance of clause (1) of Article 252 of the Constitution resolutions have been passed by all the Houses of the Legislatures of the States of Andhra Pradesh, Gujarat, Haryana, Himachal Pradesh, Karnataka, Maharashtra, Orissa, Punjab, Tripura, Uttar Pradesh and West Bengal that the matters aforesaid should be regulated in those States by Parliament by law;"

that the Parliament never intended to take recourse to its powers under Art. 250(1), but proceeded to make such a law, being clothed with its powers to legislate on the subject under Art. 252(1). The Act was, therefore, a law enacted by the Parliament by virtue of its powers under Art. 252(1). The Statement of Objects and Reasons really places the matter beyond all doubt. Its material portion reads :

> "Statement of Objects and Reasons
>
> *There has been a demand for imposing a ceiling on urban property also, especially after the imposition of a ceiling on agricultural lands by the State Governments.* With the growth of population and increases in urbanization, a need for orderly development of urban areas has also been felt. *It is, therefore, considered necessary to take measures for exercising social control over the scarce resource of urban land with a view to ensuring its equitable distribution amongst the various sections of society and also avoiding speculative transactions relating to land in urban agglomera-*

tions. With a view to ensuring uniformity in approach Government of India addressed the State Governments in this regard; *eleven States have so far passed resolutions under Art.* 252(1) *of the Constitution empowering Parliament to undertake legislation in this behalf. The present proposal is to enact a Parliamentary legislation in pursuance of these resolutions.*" (Emphasis supplied)

There is also some difficulty in accepting the contention of the learned Attorney General on a matter of construction of Art. 252(1). The question of adoption of a law made by the Parliament in respect of any of the matters in State List arises under the second part of Art. 252(1) and is dependent upon the 'desirability' expressed by the legislatures of two or more States empowering the Parliament to make such a law under the first part thereof. We are inclined to think that some meaning must be given to the words "any Act so passed". The power of adoption, is, therefore, related to a law made under Art. 252(1) and cannot be exercised in respect of laws made by the Parliament under Art. 250(1) while a Proclamation of Emergency is in force. Furthermore, such a law, in terms of Art. 250(2), ceases to have effect on the expiration of a period of six months after the Proclamation has ceased to operate.

The learned Attorney General, however, rightly contends, in the alternative, that the Parliament being invested with the power by resolutions passed under the first part of Art. 252(1) by as many as eleven States, to legislate on the subject, i.e., to make a law for the imposition of a ceiling or immovable property, it had the competence to so structure the Act that it was capable of being adopted by other States under the second part of Art. 252(1). *A fortiori,* the specification of the State of Rajasthan by which the Act may be adopted, as well as the categorisation of the urban agglomerations therein to which it may apply, had to be there.

It is, however, strenuously urged on behalf of the petitioner that a law made by the Parliament under Art. 252(1) cannot be so designated as to extend to the States which had not sponsored a resolution. Emphasis is laid upon the words "in such States", and it is said that they mean "in those States", i.e., the sponsoring States. In support of the contention, our attention was particularly drawn to the word accordingly', and it is urged that the law passed by the Parliament under Art. 252(1) must be restricted in its operation to those States, i.e., to those States in which the Legislature passed a resolution. We are afraid, the contention cannot be accepted.

A In our considered judgment, the Parliament having been invested with powers to legislate on a State subject, by resolutions passed by Legislatures of two or more States under Art. 252(1), has plenary powers to make suitable legislation. It follows, as a necessary corollary, that the Act passed by the Parliament under Art. 252(1) can be so structured as to be capable of being effectively adopted by the B other States. Article 252(1) undoubtedly enables the Parliament to make a uniform law. The Act so passed would automatically apply to the States the legislatures of which have passed a resolution in terms of Art. 252(1), and at the same time it must be capable of being adopted by other States which have not sponsored a resolution, i.e., the C non-sponsoring States. The second part of Art. 252(1) will be meaningful only if it were so interpreted; otherwise, it would be rendered wholly redundant. To illustrate, if the part of the Schedule relating to the State of Rajasthan is treated as *non est,* the schedule which forms part of the Act cannot be amended except under Art. 252(2), i.e., 'in the like manner'. We fail to appreciate how two or more States D can now pass a resolution for extension of the Act to the State of Rajasthan.

In a law relating to the imposition of ceiling on vacant land in urban agglomerations throughout the territory of India, it was competent for the Parliament under Entry 18, List II of Seventh Schedule E not only to have the States specified in the Schedule to the Act where the law will extend, but also include the categorisation of urban agglomerations in respect of the whole of the territory of India. The Act would automatically apply from the date of its application to those States which had passed the resolution in terms of the first part of Art. 252(1), and would extend to the adopting States from the date F of the resolutions passed by the legislatures of such States. The Parliament had, therefore, in fact and in law, competence to legislate on the subject of the imposition of ceiling on urban immovable property, and the Schedule to the Act cannot, therefore, be struck down in relation to the State of Rajasthan.

G It is conceded by learned counsel for the petitioner that if the Act had been enacted without the Schedule, with an appropriate definition of 'an urban agglomeration' in s. 2(n), in general terms, making the law applicable to cities and towns having, for example, a population of one lac and above, five lacs and above etc., it would have been within the legislative competence of the Parliament. If that be so, then it is H inexplicable why simply because some of the areas in some of the States have been specified, although their State legislatures had not sponsored any resolution, the schedule, in so far as those States are

concerned should be regarded as *non est*. If it is competent for the Parliament to make a general law under Art. 252(1) to facilitate its adoption by other States, it must logically follow that the Parliament could also pass the Act in its present form. A

We are of the opinion that the Act with the Schedule annexed became applicable in those States where the legislatures passed resolutions expressing the 'desirability' for the Parliament to make a law for the imposition of ceiling on urban immovable property, and it lay dormant insofar as the other States were concerned. It became applicable to these other States from the date that their Houses of Legislatures adopted it. In that view, we must hold that the impugned Act is not beyond the legislative competence of the Parliament insofar as the State of Rajasthan is concerned. B C

In the result, the appeals succeed and are allowed. The judgment of the Andhra Pradesh High Court is set aside, and it is declared that the Urban Land (Ceiling and Regulation) Act, 1976, is, and has always been, in force in the State of Andhra Pradesh w.e.f. January 28, 1976. It is further declared that the Act extends to the urban agglomerations of Warangal. It must, for reasons already stated, also be held that the Act applies to the State of Rajasthan w.e.f. March 9, 1976. The remaining contentions advanced in the writ petition will be dealt with separately. There shall be no order as to costs in these proceedings. D E

N.V.K. *Appeals allowed.*