



Olga Tellis Case 1985

For Prelims: Supreme Court, Olga Tellis vs Bombay Municipal Corporation, in 1985 case, Right to Life of Pavement Dwellers, Prior Approval for Anti-Encroachment

For Mains: Right to Life, Judgments & Cases, Judiciary

Why in News?

Recently, the Constitution Bench judgment of the [Supreme Court in Olga Tellis vs Bombay Municipal Corporation, in 1985 case](#), held that pavement dwellers are different from trespassers may become a game-changer in the [Jahangirpuri \(Delhi\) case](#).

What were the Questions Discussed before the Supreme Court?

- **About the Issue:** The case started in **1981** when the **State of Maharashtra and the Bombay Municipal Corporation** decided that **pavement and slum dwellers in Bombay city should be evicted** and **“deported to their respective places of origin** or places outside the city of Bombay.”
- **Question on Right to Life of Pavement Dwellers:** One of the main questions was whether eviction of a pavement dweller would amount to depriving him/her of their livelihood guaranteed under [Article 21 of the Constitution](#).
 - Article 21 mandates that **“no person shall be deprived of his life or personal liberty except according to procedure established by law”**.
 - Approximately, there are **20 million pavement dwellers** in India.
- **Question of Prior Approval for Anti-Encroachment:** The Constitution Bench was also asked to determine if provisions in the **Bombay Municipal Corporation Act, 1888**, allowing the removal of encroachments without prior notice, were arbitrary and unreasonable.
- **Question on Trespassing:** The Supreme Court also decided to examine the question of whether it was **constitutionally impermissible** to characterize pavement dwellers as trespassers.

What was the Supreme Court's Judgement in Olga Tellis vs Bombay Municipal Corporation, 1985 Case?

- The **Olga Tellis vs Bombay Municipal Corporation judgment in 1985** ruled that eviction of pavement **dwellers using unreasonable force, without giving them a chance to explain is unconstitutional**.
 - It is a **violation of their [right to livelihood](#)**.
- The court had emphatically **objected to authorities treating pavement dwellers as mere trespassers**.
 - “They (pavement dwellers) manage to find a habitat in places which are mostly filthy or marshy, out of sheer helplessness.

What was the State Government's Defense?

- **Question of Estoppel:** The State government and the corporation countered that pavement dwellers should be estopped.
 - **Estoppel** is a judicial device **whereby a court may prevent or “estop” a person from making assertions.**
 - Estoppel may **prevent someone from bringing a particular claim** contending that the shacks constructed by them on the pavements cannot be demolished because of their right to livelihood.
- **Public’s Right of Way:** They cannot claim any **fundamental right** to encroach and put-up huts on pavements or public roads over which the **public has a ‘right of way.’**

What did the Supreme Court rule Presently?

- **On Estoppel:** The court rejected the government’s argument of Estoppel, saying **“there can be no Estoppel against the Constitution.”**
 - The court held that the right to life of pavement dwellers was at stake here.
- **On Right to Livelihood:** The **right to livelihood was an “integral component” of the right to life.**
 - If the right to livelihood is not treated as a part of the constitutional right to live, the **easiest way of depriving a person of his right to life would be to deprive him of his means of livelihood** to the point of abrogation.
- **On Prior Notice:** On the second question whether provisions in law allowing statutory authorities to remove encroachments **without prior notice was arbitrary.**
 - Such powers are designed **to operate as an “exception” and not the “general rule.”**
 - The procedure of eviction should lean **in Favour of procedural safeguards which follow the natural principles of justice** like giving the other side an opportunity to be heard.
 - The right to be heard gives affected persons an opportunity to participate in the **decision-making process** and also provides them with a **chance to express themselves with dignity.**
- **On Trespassing:** Finally, the court emphatically **objected to authorities treating pavement dwellers as mere trespassers.**
 - The apex court ruled that pavement dwellers live on **“filthy footpaths out of sheer helplessness”** and not with the object of **offending, insulting, intimidating or annoying anyone.**
 - They live and earn on footpaths because they have **“small jobs to nurse in the city and there is nowhere else to live.”**

UPSC Civil Services Examination, Previous Year Questions (PYQs)

Q. Which Article of the Constitution of India safeguards one’s right to marry the person of one’s choice? (2019)

- (a) Article 19
- (b) Article 21
- (c) Article 25
- (d) Article 29

Ans: (b)

Exp:

- The right to marry is a component of the right to life under Article 21 of the Constitution of India which states that **“No person shall be deprived of his life and personal liberty except according to the procedure established by law”.**

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