Understanding the Olga Tellis Judgement

Why in news?

The Olga Tellis judgement has become relevant to the recent Supreme Court judgement on Jahangirpuri case.

What is the Jahangirpuri case about?

- Recently, a fleet of bulldozers descended on Jahangirpuri in Delhi to demolish buildings, petty shops, and the entrance gate of a mosque.
- Soon after the demolitions started, the Supreme Court in an urgent hearing ordered that "status quo" be maintained until further orders.
- The Supreme Court held that pavement dwellers are different from trespassers which may become a game-changer in the Jahangirpuri case.

To know more about the Jahangirpuri eviction drive, click here

What is the Olga Tellis judgement?

- **Case background**- In 1981, the State of Maharashtra and the Bombay Municipal Corporation decided that pavement and slum dwellers in Bombay city should be evicted.
- Some demolitions were carried out before the case was brought to the Bombay High Court.
- While they conceded that they did not have any fundamental right to put up huts on pavements or public roads.
- **Questions before Supreme Court**- The case came up before the Supreme Court on larger questions of law.
    - Whether eviction of a pavement dweller would amount to depriving him/her of their livelihood guaranteed under Article 21 of the Constitution?
    - Whether the provisions in the Bombay Municipal Corporation Act, 1888, allowing the removal of encroachments without prior notice, were arbitrary and unreasonable?
    - Whether it was constitutionally impermissible to characterise pavement dwellers as trespassers?
- **State government's defence-** 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 them from contending that the shacks constructed by them on the pavements cannot be demolished because of their right to livelihood.

How did the Supreme Court rule?

- **Eviction**- In the *Olga Tellis vs Bombay Municipal Corporation*, 1985, the Bench threw out the government's argument of estoppel, saying that there can be no estoppel against the Constitution.

- It agreed that pavement dwellers do occupy public spaces unauthorised.
- However, the pavement dwellers too have a right to life (which includes the right to livelihood) and dignity.
- **Removing encroachments without prior notice-** The court held that such arbitrary powers are designed to operate as an “exception” and not the “general rule.”
- It also said that they should be given a chance to be heard and a reasonable opportunity to depart before expelling them by force.
- **Pavement dwellers as trespassers**- The court objected to authorities treating pavement dwellers as mere trespassers.
- The pavement dwellers manage to find a habitat in places which are mostly filthy or marshy, out of sheer helplessness.
- The court had reasoned that encroachments committed by them are involuntary acts as they are compelled by inevitable circumstances and are not guided by choice.
- Besides, the court noted, even trespassers should not be evicted by using force greater than what is reasonable and appropriate.

Reference

1. https://www.thehindu.com/news/national/understanding-the-olga-tellis-judgment/article65351138.ece?homepage=true

SHANKAR IAS PARLIAMENT
Information is Empowering