

Radha Krishan vs Compensation Officer, Meja, Allahabad ... on 21 October, 1953

Equivalent citations: AIR1954ALL202, AIR 1954 ALLAHABAD 202

Author: Raghubar Dayal

Bench: Raghubar Dayal, V. Bhargava

JUDGMENT

Raghubar Dayal, J.

1. This is a writ application under Article 226 of the Constitution in the following circumstances:
2. Sheo Garul Ram Pande died in 1925, leaving a widow and two daughters-in-law, one of whom is still alive. The zamindari property, which he left and over which the names of his widow, opposite-party 2, and daughter-in-law, opposite party 3, stand mutated, vested in the Government in view of the provisions of the U. P. Zamindari Abolition and Land Reforms Act, 1951. Compensation for the zamindari property is to be paid. Under the orders of the Compensation Commissioner the amount is to be paid to opposite-parties 2 and 3. The applicant claims to be one of the sons of one of the two daughters left by Sheo Ram Pande. He at first filed an objection before the Compensation Officer to the payment of compensation to the opposite-parties 2 and 3. The objection was rejected by the Compensation Officer relying on the instructions issued from the Compensation Commissioner. He now files this application.
3. It is contended for the applicant that under Section 69, Zamindari Abolition Act the Compensation Officer is to deposit the compensation payable to a limited owner with such authority or bank as he prescribed, notwithstanding anything contained in any law but subject to any general directions that the State Government may give. The State Government made rules under this Act and R. 84 lays down that the compensation due to a limited owner shall be deposited for or on behalf of such person with the Imperial Bank of India and in the districts where there are no branches of the said bank with any scheduled bank as may be selected by the Compensation Commissioner. It is submitted that in view of this rule the Compensation Officer is bound to deposit the amount with one of the banks mentioned in R. 84 and that it is not open to him to pay the amount direct to the person entitled to it.
4. We do not agree with this contention. We are of opinion that Section 69, Zamindari Abolition and Land Reforms Act gives a discretion to the Compensation Officer to deposit or not to deposit the amount and that such discretion is to be subject to any general directions that the State Government

might give. We have not been referred to any general directions of the State Government to the effect that this discretion under Section 69 has been taken away and that the Compensation Officer must deposit the amount with the prescribed bank or authority in every case. If the objection of the applicant has been rejected by the Compensation Officer relying on the directions of the Compensation Commissioner which directions are not said to be against any directions given by any other superior authority on behalf of the State, it cannot be said that the Compensation Officer did not act in accordance with the directions given by the State Government. Rule 84 does not give any directions with respect to this matter. It simply prescribes the bank or authority with which the compensation money was to be deposited. The provisions of the rule will come into effect only after the Compensation Officer has exercised his discretion and has come to the conclusion that the amount should be deposited in a bank. He has no discretion in selecting the authority or the bank with which to deposit the amount, as he had no such discretion. Rule 84 had to provide the bank or authority with which the amount was to be deposited.

5. It is further contended that under Section 72, Zamindari Abolition and Land Reforms Act the State Government was quite free to make any rule for the purpose of carrying into effect the provisions of this Chapter and that the State Government could, therefore, make a rule taking away the discretion of the Compensation Officer under Section 69, Zamindari Abolition and Land Reforms Act. Rules cannot take away what is given by the Act. Rules are for the purpose of carrying out the provisions of the Act. The discretion of the Compensation Officer, as already mentioned, was subject to any general directions which the State Government might issue and, as mentioned above, no such general directions had been issued, and Rule 84 does not contemplate to give any such general directions with respect to the deposit of compensation money.

6. In view of the above we reject this application.