

Gulab Ajwani And Ors. vs Saraswati Bai And Ors. on 14 January, 1977

Equivalent citations: AIR1978SC326, (1977)3SCC581, AIR 1978 SUPREME COURT 326, 1977 3 SCC 581

Author: V.R. Krishna Iyer

Bench: A.C. Gupta, V.R. Krishna Iyer

JUDGMENT

V.R. Krishna Iyer, J.

1. A few facts necessary to lead up to the conclusion which we have reached may be narrated.
2. One Hassanand migrated from Pakistan to India in or around 1947. He had apparently considerable assets left behind and so he applied under the displaced Persons (Claims) Act, 1960 for registration of his claim in respect of the properties left behind in Pakistan. However, he moved the Settlement Officer who set aside the ex parte order and thereafter, acting under the powers vested by the Displaced Persons (Compensation and Rehabilitation) Act, 1954 the Additional Settlement Officer verified and allowed the claim of Hassanand to the extent of 291 standard acres. On May 25, 1956 compensation was quantified under the latter Act (The Displaced Persons (Compensation and Rehabilitation) Act, 1954) and adjusted by allotment of an evacuee property. Later on 28th June, 1955 Hassanand died and the present respondent No. 1, his heir filed an application under Section 9 of the 1954 Act for compensation.
3. Subsequently, on April 11, 1963, one Mr. Wason made an order reviewing the earlier verification dated March 18, 1955 by the Additional Settlement Commissioner and rejected the entire claim of 291 standard acres. The aggrieved respondents moved in revision, the Chief Settlement Commissioner which was disposed of by the Additional Settlement Commissioner with delegated powers of the Chief Settlement Commissioner and it was rejected in February, 1964. A writ petition to the Bombay High Court followed and it met with success. In the view of the High Court the review of the earlier order by the Additional Settlement Commissioner vacating the claim for 291 standard acres was without jurisdiction. The writ petition having been allowed, the additional Settlement Commissioner has come up, by certificate to this Court.
4. Having heard counsel, we are satisfied and counsel on both sides consent that the Additional Settlement Commissioner's order was really in exercise of a supposed power of review. By exercise of such power he vacated the order of a co-ordinate authority. We see no such power of review in the

statute and therefore on this agreed basis that the order is one passed by way of review it must fail.

5. Shri Govind Das for the appellant has drawn our attention to Section 24 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 whereunder it was open to the Chief Settlement Commissioner to exercise his wide powers of revision directly or through his delegate. It, looks as if the Central Government also has some powers in this behalf which we are not investigating as we are not called upon to do so. While we are not inclined to disturb the decision in the view that we take that the power exercised is not one of revision under Section 24 but of preview which does not find place in the statute, we leave it to the Chief Settlement Commissioner to take proceedings, if he so thinks fit, under Section 24 of the 1954 Act. If he takes such proceedings, no orders prejudicial to the respondents will be passed without giving a fair hearing to them. The respondents will certainly be free to raise all the pleas available to them under the law when the Chief Settlement Commissioner starts proceedings against them under Section 24 of the Act.

6. With the above direction we dispose of the appeal. The parties will bear their costs throughout.