

Supreme Court of India

Pala Singh (Deceased) By Lrs vs Union Of India & Ors on 22 July, 1987

Equivalent citations: 1988 AIR 873, 1987 SCR (3) 624

Author: B Ray

Bench: Ray, B.C. (J)

PETITIONER:

PALA SINGH (DECEASED) BY LRS.

Vs.

RESPONDENT:

UNION OF INDIA & ORS.

DATE OF JUDGMENT 22/07/1987

BENCH:

RAY, B.C. (J)

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RAY, B.C. (J)

SEN, A.P. (J)

CITATION:

1988 AIR 873 1987 SCR (3) 624

1987 SCC Supl. 201 JT 1987 (3) 133

1987 SCALE (2) 93

ACT:

Displaced Persons (Compensation and Rehabilitation) Act 1954: s. 24 Allotment of excess land--Allottee acquiring proprietary rights--Chief Settlement Commissioner--Whether competent to cancel allotment by Managing Officer.

Punjab Package Deal Properties (Disposal) Act, 1976/Punjab Package Deal Properties (Disposal) Rules, 1976--Rule 4--Package land in excess of entitlement cancelled--Purchase by allottee/successors-in-Interest--Permissibility of--Current market price--Determination by Tehsildar (Sales).

HEADNOTE:

All the surplus lands in the compensation pool of the Central Government as well as the excess area in the occupation of allottees were transferred under a package deal to the Punjab Government with effect from April 1, 1961.

In October 1961 the Managing Officer, Rehabilitation Department detected that there was excess allotment of land to the appellant in lieu of land left by him in Pakistan. By an order dated February 21, 1962 he allowed the petitioner to purchase the said excess area. The petitioner deposited the required amount in the Treasury on March 6, 1962.

On reference, the Chief Settlement Commissioner held that the excess land which was found in October 1961 could not be sold by the Managing Officer under the Displaced Persons (Compensation and Rehabilitation) Act, 1954 as under the package deal this land had been transferred to the Punjab Government.

The petitioner then made an application under s. 33 of the said Act to the Central Government which was dismissed. Thereupon he moved a petition under Articles 226 and 227 of the Constitution before the High Court, and contended that he is entitled to get the same land as he had already deposited the price in accordance with the order of the Managing Officer, and that the said purchase could not be can-

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celled on the plea that the land had already been transferred to the Punjab Government by the Central Government under the package deal. The petition was opposed by the respondent, who contended that the transfer of the land in dispute to the petitioner was void ab initio as under the package deal it vested in the State Government. The High Court held that the Chief Settlement Commissioner (Lands), had jurisdiction to cancel the allotment even after conferment of the proprietary right, that in view of the package deal the title to the land had already passed to the Punjab Government in 1961 and no authority under the Displaced Persons Act could make any order in regard to the sale of the land to the appellant at a concessional rate, and that only the Punjab Government could deal with the said land.

Dismissing the appeal by special leave,

HELD: 1. The Chief Settlement Commissioner had duly and properly made the order. He was competent under s. 24 of the Displaced Persons (Compensation and Rehabilitation) Act 1954 to cancel the allotment of land in excess of the area the petitioner was entitled to get under the provisions of the Act. [630F, 629E]

Smt. Balwant Kaur v. Chief Settlement Commissioner (Lands), Punjab, [1963] Punjab Law Reporter (Vol. 65) 1141 at 1187, approved.

2. The excess land allotted to the appellant was package deal property vested in the State of Punjab. As such the same could not be sold nor could it be allowed to be sold to the petitioner-appellant by the Managing Officer under the provisions of the Displaced Persons Act. The order of the Managing Officer, was, therefore, wholly without jurisdiction inasmuch as the said property was no longer in the compensation pool of the Central Government. [629CD]

Ram Chander v. State of Punjab, [1968] Current Law Journal (Punjab & Haryana) 668 approved.

3. It is for the Government of Punjab to consider and decide whether the legal representatives of the deceased appellant are entitled to purchase the said excess land under the provisions of the Punjab Package Deal Properties (Disposal) Act, 1976. The Punjab Package Deal Properties

(Disposal) Rules, 1976 prescribe procedure as to how the lands in excess of the entitlement, which have been cancelled, may be transferred to the allottees or their successors-in-interest. Rule 4 lays down that the allottee or his legal representatives will not be entitled to

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have the excess land which was cancelled on the ground of fraud, concealment or mis-representation of material facts. It is also provided in clause 8 of the said rules that the price of the land that will be transferred shall be the current market price to be determined by the Tehsildar (Sales). [630G, 63LAB]

JUDGMENT:

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 1088 (N) of 1969.

From the Judgment and Order dated 14.8.1968 of the Punjab and Haryana High Court in L.P.A. No. 95 of 1964. A. Minocha for the Appellant.

Ms. A. Subhashini, Mrs. S. Sun, C.V.S. Rao and P. Par-meshwaran for the Respondents.

The Judgment of the Court was delivered by B.C. RAY, J. This is an appeal by special leave against the Judgment and Order made in L.P.A. No. 95 of 1964 dismissing the appeal holding that the land in question having already vested in the Government of Punjab under package deal, the authority under the Displaced Persons (Compensation and Rehabilitation) Act, 1954 had no jurisdiction over lands in question.

Appellant, Pala Singh, a displaced person, was allotted 9 standard acres and 12-1/4 units of land in village Jhill, Tehsil and District Patiala in lieu of his land left in Chack No. 204 in 1950. He got the same quantity of land in village Alipur Arain on mutual exchange with an allottee of the said village. The appellant was not allotted any land for the land left by him in village Santpura and Jaffapur in Tehsil Phalia, District Gujarat. The area of Chack No. 204 R.B. was described as a suburban area by the State Government. The appellant applied for allotment in village Tripari Sayidan, a suburban of Patiala City. After due verification from the records of the Rehabilitation Department at Jullundur, the petitioner being found entitled to the suburban allotment to the tune of 10 standard acres and two units as also to a rural allotment of 2 standard acres and 8 units was allotted 6 standard acres 12-3/4 units of land in Tripari Sayidan. Proprietary right in respect of both these allotments, that is, at Tripari Sayidan and village Alipur Arain were granted to him vide sanads dated 17th February, 1956.

In October 1961, it was detected that there was excess allotment of 6 standard acres and 12-3/4 units in village Alipur Arain and accordingly the Managing Officer, Rehabilitation Department by his order dated 21st February, 1962 allowed the petitioner to purchase the said excess area. Petitioner deposited the required amount in the Treasury on March 6, 1962. On March 27, 1962, i.e. 20 days

thereafter the petitioner was served with a notice by the respondent no. 3, Assistant Registrar-cum-Managing Officer asking him to appear before the respondent no. 2, the Chief Settlement Commissioner, Civil Secretariat, Jullundur to show cause why the order of the Managing Officer allowing him to purchase the excess land should not be set aside, as it was a case of double allotment. The respondent no. 2, the Chief Settlement Commissioner, after hearing the petitioner passed an order holding that the excess land which was found in October 1961 could not be sold by the Managing Officer under the Dis- placed Persons (Compensation and Rehabilitation) Act, 1954, as under the package deal this land had been transferred to the Punjab Government. It was for the Punjab Government to decide if the said land would be sold to the petitioner at the reserve price or not. The reference was accordingly allowed and the order of the Managing Officer allowing the allottee to purchase the said 6.12-3/4 standard acres in village Alipur Arian, Tehsil District Patiala was set aside. The petitioner then made an application under Section 33 of the said Act to the respondent No. 1, the Central Government against the said order. The said application was dismissed by the respondent no. 1. Against these orders the petitioner moved a petition under Articles 226 and 227 of the Constitu- tion of India before the High Court of Punjab and Haryana under Civil Writ Petition No. 1804 of 1962 on the grounds inter alia that the petitioner is entitled to get the same land as he had already deposited the price of the allotted land in accordance with the order of the Managing Officer. The said purchase could not be cancelled on the plea that the land had already been transferred to Punjab Government by the Central Government under package deal. A return was filed on behalf of the respondents stating inter alia that in lieu of land to the extent of 6.12-3/4 standard acres allotted to him in village Tripari Sayidan, an area to the same extent was to be withdrawn from his rural allotment in village Alipur Arian. This however was not done through oversight and the allottee was in posses- sion of the both lands in villages Alipur Arian and Tripari Sayidan. This resulted in double allotment to the petition- er. It was also submitted therein that the Managing Officer wrongly allowed the petitioner to purchase the said land in village Alipur Arian in February 1962. The order of the Managing Officer was without jurisdiction as by that time property had gone out of the Compensation Pool and it vested in the State Government. It was further averred that the transfer of the land in dispute to the petitioner was void ab initio as under the package deal it vested in the State Government. Respondent no. 2 has rightly cancelled the allotment of excess land to the petitioner. The writ petition was dismissed by the learned Single Judge holding inter alia that the Chief Settlement Commis- sioner (Lands) had jurisdiction to cancel the allotment even after the conferment of the proprietary right referring to the decision in the case of Smt. Balwant Kaur v. Chief Settlement Commissioner, [1968] P.L.R. 1141 (F.B.). It was further held that the package deal came about in April 1961 whereas the offer to purchase the excess land was made in February, 1962. i.e. at a time when the land was no longer in the Central pool but it vested in the State of Punjab. The Chief Settlement Commissioner was justified in cancel- ling the permission to purchase given by the Managing Offi- cer as the land had already been transferred to the State of Punjab and the same ceased to vest in the Central Compensa- tion Pool.

Aggrieved by the judgment and order dated 16th January, 1964 passed in C.W.P. No. 1804 of 1962 an appeal under clause X of the Letters Patent was preferred by the peti- tioner. This was registered as L.P.A. No. 95 of 1964. On 14th August, 1968, the Division Bench of Punjab High Court after hearing the parties held that there was no denial by the appellant that in view of the package deal the title to the land had already passed to the Punjab Government in 1961 and no authority under

the Displaced Persons (Compensation and Rehabilitation) Act, 1954 could make any order in regard to the sale of land to the appellant at concessional rate. The title had passed to the Punjab Government in 1961 and after that it was only the Punjab Government who could deal with that land. It was further held that there was no denial that the land in question was covered by the package deal. The only contention made by the appellant was that an appeal was filed in the Supreme Court from the judgment in the case of Ram Chander v. State of Punjab, [1968] Current Law Jour- nal (Punjab & Haryana) 668 wherein the validity of the package deal was upheld. It was held that if the appeal succeeds in this Court then it would be up to the Chief Settlement Commissioner to review his own orders in the wake of such decision of the Supreme Court in order to give relief to the appellant. The appeal was accordingly dis- missed.

It is against this judgment and order this appeal by special leave has been filed.

It appears from the letters dated 3.6.1961, 5.3.1962 as well as 23.3. 1963 issued from the office of Chief Settle- ment Commissioner, Government of India that all surplus lands as well as excess area in occupation of the allottees stood transferred to the Punjab Government with effect from 1.4.1961 and the Punjab Government paid the price of the lands at the rate of Rs.445 per standard acre to the Central Government by half yearly instalments in 6 instalments within a period of three years commencing from 1st April, 1961. So these lands are package deal properties vested in the State of Punjab. It has been rightly held in the Letters Patent Appeal confirming the order of the learned Single Judge in the writ petition that since the excess land allot- ted to the appellant was package deal property the same cannot be sold nor can it be allowed to be sold to the petitioner-appellant by the Managing Officer under the provisions of Displaced Persons (Compensation and Rehabili- tation) Act, 1954. So the order of the Managing Officer made in February, 1962 is wholly without jurisdiction inasmuch as the said property was no' longer in the compensation pool of the Central Government but it was a package deal property vested in the State of Punjab. It has also been rightly held that the Chief Settlement Commissioner is competent under Section 24 of the Displaced Persons (Compensation and Reha- bilitation) Act 44 of 1954 to cancel the allotment of land in excess of the area the petitioner is entitled to get under the provisions of the said Act. This legal position has been settled by a decision of the Punjab and Haryana High Court in the case of Ram Chander v. State of Punjab (supra) wherein it has been held:-

"In our opinion, the package deal has the effect of transferring the property from the Central Government to the Punjab State and the logical result which flows from it is that the Settlement Authorities as delegates of the Central Government could not pass any orders under the Act."

It appears that the Civil Appeal No. 470 of 1969 which was filed against the judgment and order passed in LPA No. 298 of 1966 was disposed of by this Court (to which both of us were parties) on 29th July, 1986 by recording the follow- ing order:-

"In view of the judgment in Civil Appeal Nos. 2125(N) of 1968 and 1832 of 1969, there is no reason to consider the question of law raised by the State of Haryana in this appeal. The appeal is accordingly disposed of without expressing any opinion on

the merits." It also appears that this Court passed an order on 29th July, 1986 dismissing Civil Appeal Nos. 2125(N) of 1968 and 1832 of 1969 by recording the following order:- "There is no merit in these appeals. By the judgment, the High Court has set aside the sales and directed re-auction of the proper- ties. We entirely agree with the reasoning and conclusion reached by the High Court. The appeals are accordingly dismissed with no order as to costs."

It is therefore clear and evident that the judgment of the Punjab High Court rendered in the case of Ram Chander v. State of Punjab & Ors. (supra) insofar as it relates to the validity of the package deal, has been upheld by this Court. So there is no merit in this contention made on behalf of the appellant.

It has also been held by the Full Bench of the Punjab High Court in the case of Smt. Balwant Kaur v. Chief Settlement Commissioner (Lands), Punjab, [1963] Punjab Law Report- er (Vol. 65) 1141 at 1187 that the Chief Settlement Commis- sioner was competent to cancel or set aside the order of transfer even if the sanad was granted or the sale deed had been executed and on such order being made the sanad or the sale deed will automatically fall with it. On a conspectus of these decisions the point is now well settled that the respondent No. 2, the Chief Settlement Commissioner has duly and properly made the impugned order of cancellation of the excess allotment made to the appel- lant.

It appears that the petitioner has already made an application to the Government for allotment to them of the said excess land on taking from them the appropriate price. It has been further stated that Pala Singh had died during the pendency of this appeal and he left his widow and four sons and daughters as his legal representatives. It is for the Government of Punjab to consider and decide whether the legal representatives of deceased appellant are entitled to purchase the said excess land under the provisions of the Punjab Package Deal Properties (Disposal) Act, 1976 and the rules framed thereunder.

It is relevant to mention in this connection that the Gov- ernment of Punjab amended the rules and the said amended rules have been titled as Punjab Package Deal Properties (Disposal) Rules, 1976. These rules lay down elaborate procedure as to how the lands in excess of the entitlement which have been cancelled may be transferred to the allottees or their successors-in-interest. It also appears from Rule 4 that the allottee or his legal representatives will not be entitled to have the excess land which was cancelled on the ground of fraud, concealment or mis-representation of material facts. It is also provided in clause 8 of the said rules that the price of the land that will be transferred shall be the current market price to be determined by the Tehsildar (Sales).

For the reasons aforesaid there is no merit in the appeal and as such it is dismissed with costs, assessed at Rs. 1,000.

P. S. S.
missed.

Appeal dis-

