

The Displaced Persons (Compensation and Rehabilitation) Act, 1954

UNION OF INDIA

India

The Displaced Persons (Compensation and Rehabilitation) Act, 1954

Act 44 of 1954

- Published in Gazette of India on 9 October 1954
- Not commenced
- [This is the version of this document from 27 February 1960.]
- [Note: The original publication document is not available and this content could not be verified.]

1. [Amended by The Displaced Persons (Compensation and Rehabilitation) Amendment Act, 1960 (Act 02 of 1960) on 27 February 1960]

An act to provide for the payment of Compensation and Rehabilitation grant to displaced persons and for matters connected therewith. Be it enacted by Parliament in the Fifth Year of the Republic of India as follows: -

1. Short title—This Act may be called the Displaced Person (Compensation and Rehabilitation) Act, 1954.

2. Definitions—In this Act, unless the context otherwise requires:

(a)“compensation pool” means the compensation pool constituted under Section 14;(b)“displaced person” means any person who, on account of the setting up of the Dominions of India and Pakistan, or on account of civil disturbances or the fear of such disturbances in any area now forming part of West Pakistan, has after the first day of March, 1947, left, or been displaced from, his place of residence in such area and who has been subsequently residing in India, and includes any person who is resident in any place now forming part of India and who for that reasons is unable or has been rendered unable to manage, supervise or control any immovable property belonging to him in West Pakistan, and also includes the successors-in-interest of any such person;(c)“evacuee property” means any property which has been declared or is deemed to have been declared as evacuee property under the Administration of Evacuee Property Act, 1950 (XXXI of 1950),(d)“public dues” in relation to a displaced persons, includes—(i)arrears of rent in respect of any property allotted or leased to the displaced person by Central Government or a State Government or the Custodian;(ii)any amount recoverable, whether in one lump sum or in

installments, from the displaced person on account of loans granted to him by the Central Government or a State Government or the Rehabilitation Finance Administration constituted under the Rehabilitation Finance Administration Act, 1948 (XII of 1948), and any interest on such loans;(iii)the amount of purchase money or any part thereof and any interest on such amount or part remaining unpaid and recoverable from the displaced person on account of transfer to him of any property or interest therein by—(a)the Central Government; or(b)any State Government; or(c)any body corporate or other authority or person financed by the Central Government or a State Government for the purpose of the acquisition; development or construction of any immovable property for the rehabilitation of displaced persons;(iii)a) any dues payable, whether in one lump sum or in installments, to a co- operative society, registered as such under any law for the time being in force, by the displaced person on account of loans granted to him by the co-operative society, where such loans have been granted out of funds placed at the disposal of the co-operative society by the Central Government or a State Government and such dues have been declared by the Central Government by notification in the Official Gazette, to be public dues;(iv)any other dues payable to the Central Government, a State Government, or the Custodian which may be declared by the Central Government, by notification in the Official Gazette, to be public dues recoverable from the displaced persons;(e)“verified claim” means any claim registered under the Displaced Persons (Claims) Act, 1950 (XLV of 1950) in respect of which a final order has been passed under that Act or under the Displaced Persons (Claims) Supplementary Act, 1954 (12 of 1954), and includes any claim registered on or before the 31st day of May, 1953 under the East Punjab Refugees (Registration of Land) (Claims) Act, 1948 (East Punjab Act, XII of 1948) or under the Patiala Refugees (Registration of Land (Claims) ordinance, 2004 (Order 10 of 2004 BK) and verified by any authority appointed for the purpose by the Government of Punjab, the Government of Patiala or the Government of Patiala and East Punjab States Union, as the case may be, which has not been satisfied wholly or partially by the allotment of any evacuee land under the relevant notification specified in Section 10 of this Act, but does not include—(i)any such claim registered in respect of property held in trust for a public purpose of a religious or charitable nature;(ii)except in the case of a banking company for the purpose of sub clause (I) of clause (b) of sub-section (3) of Section 6, only—(a)any such claim made by or on behalf of any company or association whether incorporated or not;(b)any such claim made by a mortgagee or other person holding a charge or lien on immovable property belonging to a displaced person in West Pakistan;(f)“prescribed” means prescribed by rules made under this Act;(g)“West Pakistan” means the territories of Pakistan excluding the Province of East Bengal and includes the tribal area to Tochi and Kurram and such other tribal areas adjoining the North West Frontier as may be specified in this behalf by order of the Central Government;(h)all other words and expressions used but not defined in this Act and defined in the Administration of Evacuee Property Act, 1950 (XXXI of 1950) have the meanings respectively assigned to them in that Act.

Commentary

Chapter II

Payment of Compensation & Rehabilitation Grants to Displaced Persons

3. Appointment of Chief Settlement Commissioner, etc.

(1)The Central Government may, by notification in the Official Gazette, appoint a Chief Settlement Commissioner, a Joint Chief Settlement Commissioner, and as many Deputy Chief Settlement Commissioners, Settlement Commissioners, Additional Settlement Commissioners, Assistant Settlement Commissioners, Settlement Officers, Assistant Settlement Officers and Managing Officers as may be necessary for the purpose of performing the functions assigned to them by or under this Act and may by general or special order provide for the distribution or allocation of work to be performed by them under this Act.(2)Subject to the provisions of this Act, the Joint Chief Settlement Commissioner, all Deputy Chief Settlement Commissioners, Settlement Commissioners, Additional Settlement Commissioners, Assistant Settlement Commissioners, Settlement Officer, Assistant Settlement Officers and Managing Officers shall perform the functions assigned to them by or under this Act under general superintendence and control of the Settlement Commissioner.

4. Application for payment of compensation—

(1)The Central Government shall, from time to time, but not later than the thirtieth day of June, 1955, by notification in the Official Gazette require all displaced persons having a verified claim to make applications for the payment of compensation and any such notification may be issued with reference to displaced persons residing in any State or in any one of a group of States.(2)Every displaced person who, by a notification issued under sub-section (1) is required to make an application for the payment of compensation shall make such application in the prescribed form to the Settlement Officer having jurisdiction, within three months of the date of the notification.Provided that the Settlement Officer may entertain any such application after the expiry of the said period of three months, if he is satisfied that the applicant was prevented by sufficient cause from filing the application in time.(3)An application for the payment of compensation under this section shall contain the following particulars, namely :-(a)the name and address of the applicant;(b)the amount of the verified claim;(c)the encumbrances, if any, on the property to which the verified claim relates;(d)the form in which the applicant desires to receive compensation;(e)the amount, if any, of the public dues recoverable from the applicant;(f)the property, if any, allotted or leased to the applicant by the Central Government or a State Government or by the Custodian;(g)such other particulars as may be prescribed.(4)Any notification issued by the Central Government before the commencement of this Act inquiring displaced persons of any class or description to make applications for the payment of compensation, shall be deemed to have been issued under this Section and all applications for the compensation made in pursuance of any such notification shall be deemed to have been made under this Section and any proceeding in relation to any such application pending at the commencement of this Act shall be disposed of in accordance with the provisions of this Act;Provided that a displaced person who made an application for payment of compensation before the commencement of this Act may, within one month of such commencement, intimate in writing to the Officer or authority to whom the application was made or the successor-in-office of any such officer or authority, the form in which he desires to receive the compensation.

5. Determination of public dues by Settlement Officers—

On receipt of an application under Section 4, the Settlement Officer shall, after making an inquiry in such manner as may be prescribed, pass an order determining the amount of public dues, if any, recoverable from the applicant and shall forward the application and the record of the case to the Settlement Commissioner.

6. Relief to certain banking companies—

(1)Where a debt due to a banking company is secured by a mortgage, charge or lien on any immovable property belonging to a displaced person in West Pakistan in respect of which compensation is payable under this Act and such mortgage, charge or lien was subsisting on the date when the claim of the banking company was registered under the Displaced Persons (Claims) Act, 1950 (XLIV of 1950), the banking company shall be entitled to relief in accordance with the provisions of this Section.(2)Where the displaced person is entitled to receive compensation in respect of any such property as is referred to in sub-section (1), the banking company shall be entitled: -(a)if the compensation to the displaced person in respect of such property is payable in cash, to receive such amount as bears to the total debt, the same proportion as the compensation payable to the displaced person bears to the value of the verified claims of the displaced person in respect of such property;(b)if the compensation to the displaced person is payable in the form of transfer of any property from the compensation pool, then, subject to a prior charge under sub-section (3) Section 20 to a second charge on such property for the amount which would have been payable to the banking company under clause (a) if the displaced person had been paid compensation in cash;(c)if the compensation to the displaced person is payable in any other form, to such relief as the Settlement Officer, having regard to the principle specified in clause (a) or (b), may determine.(3)For the purpose of this Section,--(a)the expression 'banking company' means any of the displaced banks specified in the Schedule and includes any other banking company which before the fifteenth day of August, 1947 carried on the business of banking, whether wholly or partially in any area now forming part of West Pakistan and which the Central Government may, having regard to the dislocation of such business on account of the partition of the country, by notification in the Official Gazette, specify in this behalf;(b)the expression 'total debt' means,--(i)where the banking company has preferred a claim under the Displaced Persons (Claims) Act, 1950 (XLV of 1950) and the claim has been verified, the amount of the verified claim, subject to such adjustment as the Settlement Officer, having regard to the provisions of the Displaced Persons (Debts Adjustment) Act, 1951 (LXX of 1951) applicable to secured debts, may make;(ii)where the banking company has preferred such claim but the claim has not been verified, such amount as the Settlement Officer, having regard to the provisions of the Displaced Persons (Debts Adjustment) Act, 1951 (LXX of 1951) applicable to secured debts, may determine.

7. Determination of the amount of compensation—

(1)On receipt of an application for payment of compensation together with the record of the case forwarded under Section 5, the Settlement Commissioner shall make an enquiry in such manner as may be prescribed and having due regard to the prescribed scales of compensation, the nature of the

verified claim and other circumstances of the case, shall ascertain the amount of compensation to which the applicant is entitled.(2)On ascertaining the amount of compensation to which an applicant is entitled under sub-section (1) the Settlement Commissioner shall deduct therefrom the following dues recoverable from the applicant, in the order of priority mentioned below :-(a)the amount, if any, of the public dues recoverable from the applicant under Section 5;(b)the amount, if any, payable to a banking company under section 6, and the amount, if any, of the prior charge declared under sub-section (3) of section 16 of the Displaced Persons (Debts Adjustment) Act, 1951 (LXX of 1951) in respect of which any communication is received from tribunal under Section 52 of that Act;(c)where any communication is received from any tribunal under Section 52 of the Displaced Persons (Debts (Adjustment) Act, 1951) (LXX 1951) in respect of any unsecured debts, the amount of such debts, payable by the applicant in accordance with the provisions of that Act.(3)After deducting the dues referred to in sub-section (2) the Settlement Commissioner shall make an order determining the net amount of compensation, if any, payable to the applicant.(4)The amount, if any, deducted under sub-section(2) shall be paid to the person entitled to it.

8. Form and manner of payment of compensation—

(1)A displaced person shall be paid out of the compensation pool the amount of net compensation determined under sub-section (3) of Section 7 as being payable to him and subject to any rules that may be made under this Act the Settlement Commissioner or any other officer or authority authorized by the Chief Settlement Commissioner in this behalf may make such payment in any one of the following forms or partly in one and partly in any other form, namely :-(a)in cash;(b)in Government bonds;(c)by sale to the displaced person of any property from the compensation pool and setting off the purchase money against the compensation payable to him;(d)by any other mode of transfer to the displaced person of any property from the compensation pool and setting off the valuation of the property against the compensation payable to him;(e)by transfer of share or debentures in any company or corporation;(f)in such other form as may be prescribed.(2)For the purpose of payment of compensation under this Act the Central Government may, by rules, provide for all or any of the following matters:(a)the classes of displaced person to whom compensation may be paid;(b)the scales according to which, the form and manner in which, and the installment by which, compensation may be paid to different classes of displaced persons;(c)the valuation of all property, shares and debentures to be transferred to displaced person;(d)any other matter which is to be or may be prescribed.Commentary

8A. Payment of Compensation case of mortgaged properties—

(1)Where any compensation is payable to any displaced person in lieu of property abandoned by him in West Pakistan which on the date of his migration from West Pakistan was subject to a mortgage is in favour of a person who is not resident in India, the Settlement Commissioner shall after giving a reasonable notice to the displaced person, determine the principal sum for which the property was so mortgaged and such portion of the principal sum so determined as bears the same proportion as the compensation payable to the displaced person bears to the value of verified claim of the displaced person in respect of that mortgaged property shall be deductible from the compensation payable in respect of the mortgaged property :Provided that where compensation has been paid to

any displaced person without such deduction having been made, the displaced person shall pay to the Central Government the amount of such deduction within three months of the determination thereof or such longer period as may be prescribed; Provided further that where compensation has been paid to any displaced person by sale or any other mode of transfer to him of any property from the compensation pool the displaced person may, within the aforesaid period of three months or, as the case may be, within the aforesaid prescribed period—(a) either retain the property on his paying in cash the aforesaid amount, or (b) surrender a portion of that property of a value equivalent to the amount of such deduction, such value being determined by the Settlement Commissioner in the prescribed manner. (2) If any displaced person fails to pay any amount which is liable to be deducted from his compensation under sub-section (1), or fails to surrender the property of the value equivalent to such amount, such amount may be recovered in the same manner as an arrear of land revenue. Commentary

9. Payment of compensation in cases of disputes—

Where there is any dispute as to the person or persons who are entitled to the compensation (including any dispute as to who are the successors-in-interest of any deceased claimant to compensation) or as to the apportionment of compensation among persons entitled thereto, such dispute shall, after such enquiry as may be prescribed, be decided,—(a) where the value of the verified claim does not exceed twenty thousand rupees, by the Settlement Officer; (b) where the value of the verified claim exceeds twenty thousand rupees, by the Settlement Commissioner; Provided that the Settlement Officer or the Settlement Commissioner, as the case may be may refer any such dispute to District Judge nominated in this behalf by the State Government, whose decision thereon shall be final.

10. Special procedure for compensation in certain cases—Where any immovable property has been leased or allotted to a displaced person by the Custodian under the conditions published—

(a) by the notification of the Government of Punjab in the Department of Rehabilitation No. 4895-Development or 4891-Development dated the 8th July, 1959, or (b) by the notification of all Government of Patiala and East Punjab States Union in the Department of Rehabilitation No. 8R or 9R dated the 23rd July, 1949, and published in the Official Gazette of that State dated the 7th August, 1949, and such property is acquired under the provisions of this Act and forms part of the compensation pool, the displaced person shall, so long as the property remains vested in the Central Government, continue in possession of such property on the same conditions on which he held the property immediately before the date of acquisition, and the Central Government may, for the purpose of payment of compensation to such displaced person transfer to him such property on such terms and conditions as may be prescribed. Explanation—For the removal of doubts, it is hereby declared that the notification of the Government of Patiala and East Punjab States Union Nos. 7R, 8R and 9R, dated the 23rd July, 1949, and published in the Official Gazette on the 7th August, 1949, purporting to have been made under provisions of the Patiala and East Punjab States Union Evacuee (Administration of Property) Ordinance, 2006 (Ordinance No. XIII of 2006) shall be

deemed to have been issued under the provisions of the Patiala and East Punjab States Union Administration of Evacuee Property Ordinance, 2006 (Ordinance NO.XVII of 2006) and the said notification shall not be invalid and shall be deemed never to have been invalid merely by reason of the fact that they were expressed to have been issued under the provisions of the said Ordinance No. XIII of 2006, and anything done or any action taken (including any lease or allotment granted or made) under the provisions of the said notifications shall, notwithstanding any defect in or invalidity of the said notifications, be deemed for all purposes to have been validly done or taken as if the said notifications were issued under the provisions of the aforesaid Ordinance No. XVII of 2006 and this Section was in force on the day on which such thing was done or action was taken. Commentary

11. Rehabilitation and other grants to displaced persons—

(1) The Central Government may for the relief and rehabilitation of displaced persons direct payment of any rehabilitation grant or other grant out of the compensation pool to a displaced person under such conditions and to such extent and in such form and manner as may be prescribed. Sub-Section 2 omitted by Act No.86 of 1956.

Chapter III

Compensation Pool for purposes of payment of compensation and rehabilitation grants to displaced persons

12. Power to acquire evacuee property for rehabilitation of displaced persons—

(1) If the Central Government is of opinion that it is necessary to acquire any evacuee property for a public purpose, being a purpose connected with the relief and rehabilitation of displaced persons, including payment of compensation to such persons, the Central Government may at any time acquire such evacuee property by publishing in the Official Gazette a notification to the effect that the Central Government has decided to acquire such evacuee property in pursuance of this section. (2) On the publication of a notification under sub-section (1), the right, title and interest of any evacuee in the evacuee property specified in the notification shall, on and from the beginning of the date on which the notification is so published, be extinguished and the evacuee property shall vest absolutely in the Central Government free from all encumbrances. (3) It shall be lawful for the Central Government, if it so considers necessary, to issue from time to time the notification referred to in sub-section (1) in respect of—(a) all evacuee property generally; or (b) any class of evacuee property; or (c) all evacuee property situated in a specified area; or (d) any particular evacuee property. (4) All evacuee property acquired under this Section shall form part of the compensation pool. Commentary

13. Compensation for evacuee property acquired under this Act—

There shall be paid to an evacuee compensation in respect of his property acquired under Section 12 in accordance with such principles and in such manner as may be agreed upon between the Government of India and Pakistan.

14. Compensation pool—

(1) For the purpose of payment of compensation and rehabilitation grants to displaced persons, there shall be constituted a compensation pool which shall consist of—(a) all evacuee property acquired under Section 12, including the sale proceeds of any such property and all profits and income accruing from such property; (b) such cash balances lying with the Custodian as may, by order of the Central Government be transferred to the compensation pool; (c) such contributions, in any form whatsoever, as may be made to the compensation pool by the Central Government or any State Government; (d) such other assets as may be prescribed. (2) The compensation pool shall be vested in the Central Government free from all encumbrances and shall be utilized in accordance with the provisions of this Act and rules made thereunder. Commentary

15. Exemption of property in compensation pool from processes of Courts—

No property which forms part of the compensation pool and which is vested in the Central Government under the provisions of this Act shall be liable to be proceeded against for any claim in any manner whatsoever in execution of any decree or order or by any other process of any court or other authority.

16. Management of compensation pool—

The Central Government may take such measures as it considers necessary or expedient for the custody management and disposal of the compensation pool in order that it may be effectively utilised in accordance with provisions of this Act—(2) In particular, and without prejudice to the generality of the fore-going power, the Central Government may, for the purposes referred in sub-section (1) by notification in the Official Gazette.—(a) appoint such officers as it may deem fit (hereinafter referred to as managing officer); or (b) constitute such authority or corporation, as it may deem fit (hereinafter referred to as managing corporation) (c) Every managing corporation shall be constituted under such name and shall consist of such number of persons as may be specified in the notification and every such corporation shall be a body corporate having perpetual succession and a common seal and shall by the said name sue and be sued; Provided that one third of members of every managing corporation shall be non-officials. Commentary

17. Functions and duties of managing officers and managing corporations—

(1) All managing officers or managing corporations shall perform such functions as may be assigned to them by or under the general superintendence and control of the Chief Settlement

Commissioner.(2)Subject to the provisions of this Act and the rules made there-under, a managing officer or managing corporation may take such measures as he or it considers necessary or expedient for the purpose of securing, administering, preserving managing or disposing of any property in the compensation pool entrusted to him or it and generally for the purpose of satisfactorily discharging any of the duties imposed on him or it by or under this Act and may for any such purpose as aforesaid, do all acts and incur all expenses necessary or incidental thereto.(3)An amount due to the Custodian in respect of any evacuee property acquired under this Act for any period prior to the date of the acquisition shall vest in and be payable to the Central Government and shall be recoverable by the managing officer or managing corporation from the person liable to pay the same.

18. Dissolution of Managing Corporation—

(1)Where the Central Government is satisfied that the property entrusted to a managing corporation for custody, management and disposal has been transferred to any person or persons under this Act or that for any other reason it is no longer necessary to continue the managing corporation, the Central Government may, by notification in the Official Gazette, dissolve the managing corporation.(2)Upon the publication of a notification under sub-section (1) dissolving a managing corporation—(a)all the members of the managing corporation shall vacate their office as such members;(b)all the powers and duties which may, by or under the provisions of this Act, be exercised or performed by or on behalf of the managing corporation shall be exercised and performed by such person or persons as the Central Government may direct;(c)all property vested in the managing corporation at the date of dissolution shall vest in the Central Government.

Commentary

19. Power to vary or cancel lease or allotment of any property acquired under this Act.—

(1)Notwithstanding anything contained in any contract or any other law for the time being in force but subject to any rules that may be made under this Act, the managing officer or managing corporation may cancel any allotment or terminate any lease or amend the terms of any lease or allotment under which any evacuee property acquired under this Act is held or occupied by a person, whether such allotment or lease was granted before or after the commencement of this Act.(2)Where any person,—(a)has ceased to be entitled to the possession of any evacuee property by reason of any action taken under sub-section (1), or(b)is otherwise in un-authorised possession of any evacuee property or any other immovable property forming part of the compensation pool, he shall, after he has been given a reasonable opportunity of showing cause against his eviction from such property, surrender possession of the property on demand being made in this behalf by the managing officer or managing corporation or by any other person duly authorised by such officer or corporation.(3)If any person fails to surrender possession of any property on demand made under sub-section (2), the managing officer or managing corporation may notwithstanding anything to the contrary contained in any other law for the time being in force, eject such person and take possession of such property and may, for such purpose, use or cause to be used such force as may be necessary.(4)Where a managing officer or a managing corporation is satisfied that any person,

whether by way of allotment or lease, is, or has at any time been, in possession of any evacuee property acquired under this Act to which he was not entitled, or which was in excess of that to which he was entitled, under the law, under which such allotment or lease was made or granted, then, without prejudice to any other action which may be taken against that person, the managing officer or the managing corporation may, having regard to such principles of assessment or rent as may be specified in this behalf by the Central Government, by order, assess the rent payable in respect of such property and that person shall be liable to pay the rent so assessed for the period for which the property remain or has remained in his possession. Provided that no such order shall be made without giving to the person concerned a reasonable opportunity of being heard. (5) Where any person is, or has at any time been, in unauthorised possession of any evacuee property acquired under this Act, the managing officer of the managing corporation may, having regard to such principles of assessment of damages as may be specified in this behalf by the Central Government, assess the damages on account of the use and occupation of such property and may, by order, require that person to pay the damages within such time and in such installment as may be specified in the order: Provided that no such order shall be made without giving to the person concerned a reasonable opportunity of being heard.

20. Power to transfer property out of the compensation pool—

(1) Subject to rules that may be made under this Act, the managing officer or managing corporation may transfer any property out of the compensation pool—(a) by sale of such property to a displaced person or any association of displaced persons, whether incorporate or not, or to any other person, whether the property is sold by public auction or otherwise; (b) by lease of any such property to a displaced person or an association of displaced persons whether incorporated or not, or to any other person; (c) by allotment of any such property to a displaced person or an association of displaced persons whether incorporated or not, or to any other person, on such valuation as the Settlement Commissioner may determine; (d) in the case of a share of an evacuee a company, by transfer of such share to a displaced person or any association of displaced persons whether incorporated or not, or to any other person, notwithstanding anything to the contrary contained in the Indian Companies Act, 1913 (7 of 1913) or in the memorandum of articles of association of such company; (e) in such other manner as may be prescribed. (1A) for the purpose of transferring any property out of the compensation pool under sub-section (i), it shall be lawful for the managing officer or the managing corporation to transfer the same to a displaced persons jointly with any other person or an association of displaced persons or otherwise. (2) Every managing officer or managing corporation selling any immovable property by public auction under sub-section (1) shall be deemed to be a Revenue Officer within the meaning of sub-section (4) of Section 89 of the Indian Registration Act, 1908 (XVI of 1908). (3) Where the ownership of any property has passed to the buyer before the payment of the whole of the purchase money, the amount of the purchase money or any part thereof remaining unpaid and any interest on such amount or part shall, notwithstanding anything to the contrary contained in any other law, be a first charge upon the property in the hands of buyer or any transferee from such buyer and may, on a certificate issued by the Chief Settlement Commissioner, be recovered in the same manner as an arrear of land revenue. Commentary

20A. Utilisation of compensation pool in connection with restoration of evacuee property in certain cases—

Where any evacuee or his heir is entitled to the restoration of any evacuee property on an application made by him in this behalf under Section 16 of the Administration of Evacuee Property Act, 1950, (31 of 1950), hereinafter in this Section referred to as Evacuee Property Act, and the Central Government is of opinion that it is not expedient or practicable to restore the whole or any part of such property to the applicant by reason of the property or part thereof being in occupation of a displaced person or otherwise, then, notwithstanding anything contained in the Evacuee Property Act, and this Act, it shall be lawful for the Central Government—(a) to transfer to the applicant in lieu of the evacuee property or any part thereof, any immovable property in the compensation pool or any part thereof being in the opinion of the Central Government as nearly as may be of the same value as the evacuee property or as the case may be, any part thereof, or (b) to pay to the applicant such amount in cash from the compensation pool in lieu of the evacuee property or part thereof as the Central Government having regard to the value of the evacuee property or part thereof, may, in the circumstances, deem fit. Explanation—The provision of this sub-section shall apply, whether or not a certificate for the restoration of the evacuee property has been issued to the applicant under sub-section (1) of section 16 of the Evacuee Property Act, as in force immediately before the commencement of the Administration of Evacuee Property (Amendment) Act, 1956, if the evacuee property has not in fact been restored to the applicant. (2) Where in pursuance of sub-section (1) any evacuee or his heir has been granted any immovable property from the compensation pool or has been paid any amount in cash from the compensation pool, his application under Section 16 of the Administration of Evacuee Property Act, for the restoration of the evacuee property shall be deemed to have been disposed of and his right, title and interest in such evacuee property shall be deemed to have been extinguished but such extinguishment shall not affect the power of the Central Government to acquire the evacuee property under Section 12 of this Act. This Section was inserted by Section 4 of Act of 1956, but the said Amending Act 1956, has since been repealed wholly by the Repealing and Amending Act, 1960. Commentary

20B. Restrictions on restoration of certain property—

(1) Where any person is entitled to the restoration of any property by virtue of an order made by the Custodian General under Section 27 of the Administration of Evacuee Property Act, 1950 (31 of 1950) or by the competent officer or the appellate officer under the Evacuee Interest Separation Act, 1951 (64 of 1951), and the Central Government is of opinion that it is not expedient or practicable to restore the whole or any part of such property to that person by reason of the property or part thereof being in occupation of a displaced person or otherwise then, notwithstanding anything contained in the said Act or this Act, it shall be lawful for the Central Government—(a) to transfer to that person in lieu of the property to be restored or any part thereof, any immovable property in the compensation pool or any part thereof being in the opinion of the Central Government as nearly as may be of the same value as the property to be restored or, as the case may be, any part thereof, or (b) to pay to that person such amount in cash from the compensation pool in lieu of the property to be restored or part thereof, as the Central Government, having regard to the value of the property to be restored or part thereof, may in the circumstances deem fit. (2) Where in pursuance of

sub-section (1) any person has been granted any immovable property from the compensation pool or has been paid any amount in cash from compensation pool, his right, title and interest in the property to be restored shall be deemed to have been extinguished. Commentary

21. Recovery of certain sums as arrears of land revenue—

(1) Any sum payable to the Government or to the Custodian in respect of any evacuee property, under any agreement, express or implied, lease or other document or otherwise howsoever, for any period prior to the date of acquisition of such property under this Act, which has not been recovered under Section 48 of the Administration of Evacuee Property Act, 1950, and any sum payable to the Government in respect of any property in the compensation pool may be recovered in the same manner as an arrear of land revenue. (2) If any question arises whether a sum is payable to the Government or to the Custodian within the meaning of sub-section (1) in respect of any property referred to herein, it shall be referred to the Settlement Commissioner within whose jurisdiction the property is situated and the Settlement Commissioner shall after making such inquiry as he may deem fit and giving to the person by whom the sum is alleged to be payable an opportunity of being heard decide the question; and the decision of the Settlement Commissioner shall subject to any appeal or revision under this Act, be final, and shall not be called in question by any Court or other authority. (3) For the purpose of this section, a sum shall be deemed to be payable to the Custodian, notwithstanding that its recovery is barred by the India Limitation Act, 1908, (9 of 1908), or any other law for the time being in force relating to limitation of actions.

Chapter IV

Appeal, revision and powers of officers under the Act

22. Appeals to Chief Settlement Commissioner—(1) Subject to the provisions of sub-section (2), any person aggrieved by an order of the Settlement Officer or a managing officer under this Act may, within thirty days from the date of the order, prefer an appeal to the Settlement Commissioner in such form and manner as may be prescribed :

Provided that the Settlement Commissioner may entertain the appeal after the expiry of the said period of thirty days, if he is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time. (2) No appeal shall lie from an order of the Settlement Officer under Section 5 if the difference between the amount of public dues as determined by the Settlement Officer and that as admitted by the applicant is less than one thousand rupees or such other amount not exceeding one thousand Rupees as may be specified by the Central Government in this behalf by notification in the Official Gazette. (3) The Settlement Commissioner may, after hearing the appeal, confirm, vary or reverse the order appealed from and pass such order in relation thereto as he deems fit. Commentary

23. Appeals to Chief Settlement Commissioner—(1) Subject to the provisions of Sub-section (2), any person aggrieved by an order of the Settlement Commissioner or the Additional Settlement Commissioner or an Assistant Settlement Commissioner or a managing corporation under this Act may, within thirty days from the date of the order, prefer an appeal to the Chief Settlement Commissioner in such form and manner as may be prescribed :

Provided that the Chief Settlement Commissioner may entertain the appeal after the expiry of the said period of thirty days, if he is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.(2)No appeal shall lie from any order passed in appeal under Section 22.(3)The Chief Settlement Commissioner may, after hearing the appeal confirm, vary or reverse the order appealed from and pass such order in relation thereto as he deems fit.Commentary

24. Power of revision of the Chief Settlement Commissioner:-- (1) The Chief Settlement Commissioner may at any time call for the record of any proceeding under this Act in which a Settlement Officer, an Assistant Settlement Officer, an Assistant Settlement Commissioner, an Additional Settlement Commissioner, a Settlement Commissioner, a managing officer or a managing corporation has passed an order for the purpose of satisfying himself as to the legality or propriety of any such order and may pass such order in relation thereto as he thinks fit.

(2)Without prejudice to the generality of the foregoing power under sub-section (1), if the Chief Settlement Commissioner is satisfied that any order for payment of compensation to a displaced person or any lease or allotment granted to such a person has been obtained by him by means of fraud, false representation or concealment of any material facts, then notwithstanding anything contained in this Act, the Chief Settlement Commissioner may pass an order directing that no compensation shall be paid to such a person or reducing the amount of compensation to be paid to him or as the case may be, canceling the lease or allotment granted to him; and if it is found that a displaced person has been paid compensation which is not payable to him or which is in excess of the amount payable to him, such amount or excess, as the case may be , may on a certificate issued by the Chief Settlement Commissioner, be recovered in the same manner as an arrear of land revenue.(3)No order which prejudicially affects any person shall be passed under this Section without giving him a reasonable opportunity of being heard.(4)Any person aggrieved by any order made under sub-section (2) may within thirty days of the date of the order make an application for the revision of the order in such form and manner as may be prescribed to the Central Government and the Central Government may pass such order thereon it thinks fit.Commentary

25. Review and amendment of orders—(1) Any person aggrieved by an order of the Settlement Officer under Section 5 from which no appeal is allowed under Section 22 may, within thirty days from the date of the order, make an application in such form and manner as may be prescribed to the Settlement Officer for review of his order and the decision of the Settlement Officer on such application shall, subject to the provisions of Section 24 and Section 33, be final.

(2) Clerical or arithmetical mistakes in order passed by an officer or authority under this Act or errors arising thereto from any accidental slip or omission may, at any time be corrected by such officer or authority or the successor-in-office of such officer or authority. Commentary

26. Power of officers appointed under this Act etc.—(2) Every Officer appointed under this Act shall for the purpose of making any inquiry or hearing any appeal under this Act have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 (Act V of 1908) when trying a suit, in respect of the following matters, namely :-

(a) summoning and enforcing the attendance of any person and examining him on oath; (b) requiring the discovery and production of any document; (c) requisitioning any public record from any court or office; (d) issuing commission for examination of witnesses; (e) appointing guardians or next friends of person who are minors or of unsound mind; (f) any other matter which may be prescribed; and any proceeding before any such officer shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code (Act XLV of 1860) and every such officer shall be deemed to be a Civil Court within the meaning of Sections 480 and 481 of the Code of Criminal Procedure, 1898 (Act V of 1898). (1A) Every officer appointed under this Act may for the purpose of making an inquiry under this Act and generally for the purpose of enabling him satisfactorily to discharge any of the duties imposed on him by or under this Act, require any person to submit to him such accounts, books or other documents or to furnish to him such information relating to any evacuee property acquired under this Act as he may reasonably think necessary. (2) The Chief Settlement Commissioner or any other officer hearing an appeal under this Act shall subject to the provisions of this Act, have such further powers as are vested in a civil court under the Code of Civil Procedure, 1908 (Act V of 1908) when hearing an appeal. Commentary

27. Finality of Orders—Save as otherwise expressly provided in this Act, every order made by any officer or authority under this Act, including a managing corporation, shall be final and shall not be called in question in any court by way of an appeal or revision or in any original suit, application or execution proceedings.

Commentary

Chapter V

Miscellaneous

28. Power to transfer cases—The Central Government or the Chief Settlement Commissioner may, by order in writing at any time transfer any case pending before an officer appointed under this Act to another officer and the officer to whom the case is so transferred may subject to any special direction in the order of transfer, proceed from the stage at which it was so transferred.

29. Special protection from ejectment to certain classes of persons—Where any person to whom the provisions of this section apply, is in lawful possession of any immovable property of the class notified under sub-section (2), which is transferred to another person under the provisions of this Act, then, notwithstanding anything contained in any other law, such person shall, without prejudice to any other right which he may have in the property, be deemed to be a tenant of the transferee on the same terms and conditions as to payment of rent or otherwise on which he held the property immediately before the transfer :

Provided that notwithstanding anything contained in any such terms and conditions, no such person shall be liable to be ejected from the property during such period not exceeding two years as may be prescribed in respect of that class of property, except on any of the following grounds, namely;(a)that he has neither paid nor tendered the whole amount of arrears of rent due after the date of the transfer within one month of the date on which a notice of demand has been served on him by the transferee in the manner provided in Section 106 of the Transfer of Property Act, 1882 (IV of 1982);(b)that he has, without obtaining the consent of the transferee in writing:-(i)subject or otherwise parted with the possession of the whole or any part of the property, or(ii)used the property for a purpose other than the purpose for which he was using it immediately before the transfer;(c)that he has committed any act, which is destructive of, or permanently injurious to, the property.(2)The Central Government may, from time to time by notification in the Official, Gazette, specify the class of persons to whom, and the class of immovable property in the compensation pool, other than agricultural land in respect of which the provisions of this section shall apply and in issuing any such notification the Central Government shall have regard to the following matters, that is to say—(a)the length of period for which any such persons may have been in lawful possession of the property.(b)the difficulty of obtaining alternative accommodation;(c)the availability of any other suitable residential accommodation for the use of the transferee; and(d)such other matters as may be prescribed.

Commentary

30. Exemption from arrest.—(1) No person shall be liable to arrest or imprisonment in pursuance of any process issued for the recovery of any sum due under this Act which is recoverable as an arrear of land revenue.

(2) Notwithstanding anything contained in sub-section (1) if the Chief Settlement Commissioner is of opinion that a person is refusing or neglecting, or has refused or neglected to pay any sum due under this Act, he may, after giving such person an opportunity of being heard, by order in writing stating the grounds therefor, direct that the provision of sub-section (1) shall not apply to him, and thereupon such person shall, cease to be entitled to the exemption conferred by that sub-section. Commentary

31. Advisory Board.—(1) The Central Government shall, as soon as may be, constitute a Board to advise the Central Government on matters of policy arising out of the administration of this Act.

(2) The Board shall consist of a Chairman and such number of other members not exceeding six as the Central Government may think fit to appoint and the members (including the Chairman) shall hold office for a period of two years and shall be eligible for appointment: Provided that the Chairman or any other members of the Board may resign his office by writing under his hand addressed to the Central Government and shall, on such resignation being accepted by that Government, be deemed to have vacated his office. (3) The Board may, subject to the previous approval of the Central Government, make by-laws fixing a quorum and regulating its own procedure and the conduct of all business to be transacted by it. (4) No act done or proceeding taken by the Board shall be questioned on the ground merely of the existence of any vacancy in, or a defect in the constitution of the Board. (5) If at any time the Central Government is of opinion that the continued existence of the Board is unnecessary, it may, by notification in the Official Gazette, declare that the Board shall be dissolved with effect from such date as may be specified in the notification and the Board shall be deemed to be dissolved accordingly.

32. Power to give directions.—The Central Government may give direction to any State Government as to the carrying into execution in the State of any of the provisions contained in this Act or of any rules or orders made thereunder.

33. Certain residuary powers of Central Government—The Central Government may at any time call for the record of any proceeding under this Act and may pass such order in relation thereto as in its opinion the circumstances of the case require and as is not inconsistent with any of the provisions contained in this Act or the rules made thereunder.

Commentary

34. Delegation of powers—(1) The Central Government may, by notification in the Official Gazette, direct that any power exercisable by it under this Act shall in such circumstances and under such conditions, if any, as may be specified to the direction, be exercisable also by such officer or authority subordinate to the Central Government or by the State Government or by such officer or authority subordinate to the State Government as may be specified in the notification.

(2) Subject to the provisions of this Act and of the rules and orders made thereunder, the Chief Settlement Commissioner may, by general or special order delegate all or any of his powers under this Act to the Joint Chief Settlement Commissioner, a Deputy Chief Settlement Commissioner, a Settlement Commissioner and Additional Settlement Commissioner or an Assistant Settlement Commissioner, subject to such conditions, if any, as may be specified in the order. (3) Subject to the provisions of this Act and of the rules and orders made thereunder, a Settlement Commissioner may, by general or special order delegate all or any of his powers under this Act to an Additional Settlement Commissioner, an Assistant Settlement Commissioner, a Settlement Officer or an Assistant Settlement Officer, subject to such condition, if any, as may be specified in the order. Commentary

35. Penalty—(1) Any person who furnishes in his application for payment of compensation any information which he knows, or has reason to believe to be false or which he does not believe to be true, shall be punishable with imprisonment which may extend to one year, or with fine, or with both.

(2) No court shall take cognizance of any offence punishable under this Act, save upon complaint in writing made by an officer authorised by the Chief Settlement Commissioner by general or special order in this behalf.

36. Bar of jurisdiction—Save as otherwise expressly provided in this Act, no civil Court shall have jurisdiction to entertain any suit or proceedings in respect of any matter which the Central Government or any officer or authority appointed under this Act is empowered by or under this Act to determine, and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

Commentary

37. Officers appointed under the Act to be public servants—Every officer appointed under this Act and every member of a managing corporation shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (Act XLV of 1860).

38. Protection of action taken in good faith—No suit or other legal proceeding shall lie against the Central Government or any person appointed under this Act in respect of anything which is in good faith done or intended to be done in pursuance of this Act or of any rules or orders made thereunder.

39. Validation of certain action taken before the commencement of the Act—Anything done or any action taken (including any order made) by the Chief Settlement Commissioner, Settlement Commissioners, Additional Settlement Commissioners or Settlement Officers for the purpose of payment of compensation or rehabilitation grants or other grants to displaced persons shall, in so far as it is not inconsistent with the provisions of the Act, be deemed to have been done or taken in the exercise of the powers conferred by or under this Act as if this Act were in force on the date on which such thing was done or action was taken.

40. Power to make rules—(1) The Central Government may by notification in the Official Gazette, make rules to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—(a) the form and manner in which and time within which, an application for payment of compensation may be made and the particulars which it may contain; (b) the circumstances in which and the conditions subject to which evacuee property may be acquired under this Act; (c) the sales according to which the form and manner in which, and the installments by which compensation may be paid to displaced persons; (d) the dues which may be deducted from the amount of compensation to which a displaced person is entitled; (e) the form and manner in which Government bonds may be issued to displaced persons; (f) the valuation of property, shares and debentures which may be transferred to displaced persons; (g) the terms and conditions subject to which property may be transferred to a displaced person under section 10; (h) the circumstances under which, the extent to which and the manner in which, rehabilitation grants and other grants may be paid to a displaced person; (hh) the manner in which any dispute as to who are the successors in interest of any deceased claimant to a rehabilitation grant or other grant, and as to the apportionment of such grant among persons entitled thereto, may be determined; (i) the powers, functions and duties of managing officers and managing corporations; (j) the procedure for the transfer of property out of the compensation pool and the manner of realisation of the sale proceeds

or the adjustment of the value of the property transferred against the amount of compensation;(k)the procedure to be followed by officers appointed under this Act for making enquiries under this Act;(l)the form and manner in which appeals and applications for review or revision may be preferred or made under this Act and the procedure for hearing such appeals or application for review or revision;(m)the powers vested in a Civil Court which may be exercised by an officer appointed under this Act;(n)the form and manner in which records and books of accounts may be maintained under this Act;(nn)the fees payable in respect of appeals, revisions or other application made under this Act;(o)any other matter which is to be or may be prescribed under this Act.(3)Every rule made under this section shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a period of thirty days which may be comprised in one session or in two successive sessions and if before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule, or both houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case made be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Commentary

STATEMENT OF OBJECTS AND REASONS“Negotiations have been in progress with the Government of Pakistan for more than six years with a view to arrive at an equitable solution of the problem of immovable evacuee property. The Government of India have all through been of the view that the immovable evacuee properties including agricultural land in India and Pakistan should be exchanged in lump on Government to Government basis, the debtor country paying to the creditor for the difference between the values of such properties in the two countries. The proposals made by the Government of India from time to time have, however, been turned down by Pakistan. There has been a persistent demand from displaced persons that these properties should be transferred to them in permanent ownership, the properties have been fast deteriorating and many of them have already been declared unfit for habitation or have crumbled down. To halt further deterioration and to facilitate the rehabilitation of displaced persons from West Pakistan this Bill provides that the right title and interest of evacuees in evacuee properties in India should be acquired by Government. The compensation to be paid to displaced persons will be confined to the utilization of the acquired evacuee property in India as well as any amount realized from Pakistan on account of the difference between the values of evacuee properties in the two countries. The loans so far advanced to displaced persons from West Pakistan, the properties built by the Government for their rehabilitation and the provision made till May, 1953 for their rehabilitation for the future under the Five Year Plan or otherwise will be utilized for rehabilitation by giving grants. The Bill provides for the payment of rehabilitation grants.

2. The Bill provides for the appointment of a Chief Settlement Commissioner, Settlement Commissioners and Settlement Officers who will determine and pay the amount of compensation and rehabilitation grant payable to persons having verified claims. Managing officers and managing corporations will be entrusted with the custody, management and disposal of the assets in the pool.

The Bill provides for the setting up of the Displaced Persons Welfare Corporation for the purpose of providing educational and medical facilities to displaced persons from West Pakistan and rendering assistance to institution engaged in such activities. The payments due to educational and medical trusts with verified claims will be placed at the disposal of this corporation along with other properties for being utilised for the above mentioned purpose.” Gaz. Ind., 1954, Extra, Pt. 11-Sec. 2, page 322.COMMENTARY--Sale objected to as without Mushtri Munadi in the area – And also occupants non-claimant occupants also entitled to purchase the property – Held, “property was indivisible, non-claimant occupants did not have any right to the transfer of the property” – Further held auction was held after observing due Mushtri Munadi – Writ petition dismissed – Constitution of India Articles 226/227. 1991(1) All India Land Laws Reporter 331--Administration of Evacuee Property Act, 1950—Plaintiff has been able to prove that he purchased the property from the custodian—Defendant was not a tenant of plaintiff—Plaintiff being allottee of the shop which is somehow in possession of the defendant, is entitled to mesne profits—No rent deed in favour of defendant—Nobody from the department was examined to prove his possession as allottee—How his name came to be written in some of the receipts is for the department/defendant to explain—And this amount cannot be taken as rent paid to custodian—Defendant has failed to adduce any evidence so as to confer upon him the status of an allottee in terms of the Administration of Evacuee Property Act—No merit in Regular Second Appeal. 1993(2) All India Land Laws Reporter 58--On terms non-existent in the policy decisions and others rules framed and also in the letters of allotment, the allotted land is ordered to be resumed on the pretext that it has not been cultivated at the end of 5 years—What was provided was allottee could purchase the allotted land on a fixed price and the payment made in any form will be deducted—Land vests in the allottees free from all encumbrances—A contract is validly arrived at-- Can be challenged before the competent authority under the statute or in a Civil Court—Order of the Joint Secy. (Rshab). Haryana and the Financial Commissioner (Revenue) etc. are quashed—Writ Petitions allowed. 1993(2) All India Land Laws Reporter 279--After 14 years of allotment the allotment of land is reviewed by Chief Settlement Commissioner and a part of it is required to be surrendered as at the time of allotment the department erred in evaluating this land—Writ filed against the decision, case remanded to the Chief Settlement Commissioner to decide this case after hearing the party—Petitioner gave an undertaking that question of delay of 14 years will not be raised—Remand was thus conditional and the Chief Settlement Commissioner justified the action already proposed—Another writ was filed—Held, it is a simple case where the land has been wrongly evaluated—Allotment was made by State Government—All the proceedings of the allotment and cancellation were in pursuance of the act—Instructions contained in Land Resettlement Manual would not apply—Provisions of the Act would have overriding effect—Petition dismissed. 1993(1) All India Land Laws Reporter 476--One who has left or has been displaced from his place of residence. In any area now known as West Pakistan (ii) with residence at Jalandhar and Lahore and visiting Jammu on business trips, cannot be said not to be living at Lahore and as such is a Displaced Person. Supp. Vol.23 All India Land Laws Reporter 116Non-agricultural tribe, sold land to an agriculturist, mutation was effected in 1932 in their favour and was shown as mortgagee—On migration to India, they were allotted lands in lieu of that but in 1961 when the records of relevant revenue estates were obtained from Pakistan the allotment of the mortgagees was cancelled—When cancellation was impugned, High Court held since there was a disputed question of fact, appropriate course would be a civil suit—When filed the lower court and the High Court came to a conclusion that the civil courts had no jurisdiction—In

appeal apex Court held—Original sale was valid—Without considering the 1932 mutation changes, the allotment in lieu of lost land was right—Civil Courts had the jurisdiction—Findings of lower appellate court and High Courts had the jurisdiction—Findings of lower appellate court and High Court are set aside—Trial Court findings that appellants were owners of the lands in Pakistan, and land allotted in lieu of that to rehabilitate them was correct—Injunction issue to restrain dispossession is upheld and confirmed; Dalip Chand & Ors. V. Union of India & Ors.: 1995(1) All India Land Laws Reporter (Supreme Court) 519 Keeping in view the press note published by Government of Punjab that as a policy decision no correction in Khasra Girdawris after 1.8.1974 are to be recognized—This policy has not been attacked and proved illegal—Additional commissioner has rightly excluded such entities—Error of fact when based on evidence cannot be corrected—Constitution of India, Art. 226; Magar Singh v. The Additional Comm., Ferozepur Division : 1997(1) All India Land Laws Reporter (P&H) 239 Land allotted to the deceased father of the petitioner was cancelled as it was allotted due to a clerical mistake—Petitioner's grievance is that allotment was cancelled without issuing any notice to the petitioner or any legal representative of the deceased allottee—Orders are void ab initio, passed against a dead person—Held—Order of cancellation is non-est as it was passed against a dead person—Should not have been passed without affording an opportunity of hearing to the petitioner or the legal representatives of the deceased; Mehal Singh v. Union of India & Ors.: 1997(2) All India Land Laws Reporter (P&H) 500 On cancellation of allotted land, petitioner obtained certified copies of the revenue records from Pakistan—When produced as evidence, Chief Settlement Commissioner did not take these into account, doubting their authenticity—Held—Court is of the opinion that certified copies, authenticated by the Indian Embassy should not have been rejected on the ground that they were not authenticated—It is a fit case for remanding the matter to Chief Settlement Commissioner for a decision afresh; Mehal Singh v. Union of India & Ors.: 1997(2) All India Land Laws Reporter (P&H) 500

Section 2 : SYNOPSIS

1. Allottee and Lessee

2. Default in repayment of loan

COMMENTARY

1. Allottee and lessee—Tenant of Evacuee Property—Not covered by the said definition of Allottee and lessee. Mam Chand v. Union of India, 1984(2) L.L.R. 531.

2. Default in repayment of loan—Loan obtained by the displaced persons under the provisions of Rehabilitation Finance Administration Act, 1948—Land Improvement Loans Act, 1883—Agriculturist Loans Act, 1884—Displaced persons cannot be arrested in case there is default in the repayment of loan. Kartar Singh v. State of Punjab, 1983 L L R.326

Sections 2(6), 2(10), 5, 17 and 37—Loan incurred prior to partition of country from a Bank under overdraft account is a debt within the meaning of Section 2(6)—A person is a Displaced Person who may be having two places of residence one in India and one in now known as Pakistan if is unable to manage his property in West Pakistan as per Section 2(2)—Section 5 has no application to debt sought to be enforced against a displaced debtor—He need not have his status determined—Debt incurred in Jammu and Kashmir decreed by Jammu Court—Executed by Delhi Court – Valid. Supp. Vol. 23 All India Land Laws Reporter 116Section 8 - SYNOPSIS

1. Disposal of pool Property.

2. Expression “Subject to Rule”.

3. Payment of compensation.

COMMENTARY

1. Disposal of pool Property--Central Government has ample powers to take steps for disposal of pool property by auction sale—Section do not lay law that payment of compensation by sale—Of the pool property to a displaced person shall not be done unless the rules are framed, Surinder Singh v. Central Government, 1987(2) L.L.R. 469.

2. Expression “Subject to Rules”--Expression—Subject to Rules only means in accordance with the rules if any—If the rules are framed then the authority is not precluded from exercising the power conferred by the statute, Surinder Singh v. Central Government, 1987(2) L.L.R. 469.

3. Payment as Compensation - Sections 8 and 20 provide for payment of compensation to displaced persons—Framing of rules is not condition precedent to the exercise of power conferred by statute—Central Government has ample jurisdiction to issue administrative directions, Surinder Singh v. Central Government, 1987 (1) L.L.R. 250.

Section 8A-COMMENTARYSs.8A—Inserted section gives an option to the displaced person either to retain the property on paying cash redemption amount deductible from compensation or to surrender the part of the property—And or failure to pay, the amount is made recoverable as land revenue—Held—Provision no where speaks of automatic cancellation of the allotment made in favour of displaced person on account of non-payment of mortgaged money—Managing Officer was not vested with the power to cancel the allotment (in 1960)—Recovery could be made by selling the property; Dalip Singh v. The Financial Comm. Cum Sec. To Govt. Haryana Rehabilitation Dept.: 1996(1) All India Land Laws Reporter (P & H) 117Section – 10 - SYNOPSIS

1. Grant of Sanad.

COMMENTARY

1. Grant of Sanad—Displaced person becomes owner of land on the date when sanad is granted and not when sanad Taqsim is granted—Adverse possession and period of limitation would start from the date sanad is granted. *Battan Singh v. Smt. Rakhi*, 1982 L.L.R. 463.

Section – 12 - SYNOPSIS

1. Applicability of provisions

2. Interference in second appeal

3. Purpose of Act

4. Sale Certificate

5. Selection of Land

COMMENTARY

1. Applicability of provisions—Plaintiff claiming to be owner in possession of the Shamlat land—Composite property partitioned—Provisions of Sections 12 and 27 of the Displaced Persons (Compensation and Rehabilitation) Act not applicable—What vest in the custodian or the Central Government is the evacuee interest and not the interest of the non-evacuee—Suit not barred. *Union of India v. Nihal Singh*, 1983(2) All India Land Laws Reporter 285.

2. Interference in second appeal—Suit claiming ownership on the basis of sale certificate dismissed—High Court would not interfere in second appeal. *Arjan Singh v. Pritam Singh*, 1982 All India Land Laws Reporter 508.

3. Purpose of Act—Purpose of act is to rehabilitate displaced persons—Interpretation which would lead to depriving the displaced persons of their legal right of allotment should be avoided—Rehabilitation Department should not take shelter behind procedural lacuna and mere technicalities. 1989(1) All India Land Laws Reporter 319.

4. Sale certificate—Issued by Managing Officer (Sales) in pursuance of auction—In the absence of any order of cancellation the only assumption which can be drawn is that the Sales certificate continues to have the force and the holder of Sale certificate can recover damages for use and occupation of the house auctioned to him. J.S. Chawla v. Ishar Das, 1984(1) All India Land Laws Reporter 127.

5. Selection of land—Allotment of Urban Agricultural land consisting of more than one Khasra the value of which exceeds Rs.15,000/- --Land regarding which allotment to be made is to be selected by the Regional Settlement Commissioner—Lessee has no option to select the land—Allotment made by Regional Settlement Commissioner cannot be interfered with by the revisional authority. Municipal Committee Samana v. F.C. (Taxation) Punjab, 1982 All India Land Laws Reporter 533.

--Section 12—Property allotted to a displaced and subsequently conveyance deed also issued—Conveyance deed does not require registration—Conveyance deed brought on the record can be looked into—Suit for possession based on such conveyance deed decreed. 1990(1) All India Land Laws Reporter 120. Section –14 - SYNOPSIS

1. Allotment

COMMENTARY

1. Allotment—Property can be allotted to a non-displaced person also. Gian Singh v. Secretary to Govt. Punjab, Rehabilitation Department, 1983(1) L.L.R. 30

Occupancy rights vested in muslim evacuees. Muslim occupancy tenants were shown to be in possession in the Jamabandis from 1920 to 1945. It was held that the land was part of the compensation pool and could be allotted. 1980 Land Laws Reporter 211. S. 14, 16, 20—Muslims left their undivided interest in the Shamlat deh—Such interest cannot be termed as evacuee property—Cannot be governed by the Central Act—State has the power to make laws and has made laws for the Shamlat deh—Local Act would prevail upon the Central Act—One is not in derogation of the other—Punjab Village Common Lands (Regulation) Act, 1953—S.4; Gram Panchyat, Johar Majra thru Nar Singh v. Union of India: 1996(2) All India Land Laws Reporter (P & H) 505--Sections 14 and 20—Allotment of excess land—Allotment cancelled later on—Person who was allotted the excess land has no right to demand transfer of excess allotment—Can purchase the land if offered at the price offered Rehabilitation authorities need not make the allotment at the fixed price—Cannot seek protection of Rules dealing with fixation of prices i.e. Rules 56, 62 and 63 of the Displaced Persons (Compensation and Rehabilitation) Rules, 1955. 1990(1) All India Land Laws Reporter Sections 14-

19, 24 & 33—Rules, 1955—Rule 102—Present respondent the widowed daughter-in-law of the grantee of the land against verified claim, took her ailing son for medical treatment, asked D to take care of land in her absence—D claimed himself to be adopted son of the original allottee, her father-in-law—On returning ‘D’ refused to deliver back possession—By a chequered history of litigation, Central Govt. delegate ordered resumption in favour of govt. as possession has been parted with—Such orders were passed under R.102—On her appeal, Ld. Single Judge under Section 33 of the Displaced Persons (Compensation & Rehabilitation) Act restored the allotment in her favour—Hence this appeal by State and others—held—Rule 102 is applicable to lands in Compensation Pool—After grant of agricultural land against verified claim and “Sanad” is granted the allottee became the owner and the land ceased to be in “Compensation pool”—Authorities under the Act/Rule had no power to cancel the allotment when she asked “D” to look after the land in her absence—When authorities treated “D” as rank trespasser, an order for restoration of possession should have been passed by the authorities—Judgment passed by the Ld. Single Judge does not require any interference; State of Rajasthan & Anr. V. Mst. Tikko Bai & Anr.: 1997(2) All India Land Laws Reporter (Rajasthan) 3Section – 16 - SYNOPSIS

1. Right to Allotment.

COMMENTARY

1. Right of Allotment—Competent officer not accepting the higher bid—Order not challenged—Persons giving the bid acquires no right to allotment. Gian Singh v. Secretary to Govt. Punjab, Rehabilitation Department, 1983(1) L.L.R. 300.

Section 18 & - COMMENTARY--Sections 18 and 19-DD—Land awarded as Gallantry award posthumously for gallantry during Second World War situated in Lyalpur (Pakistan)—resent Land awarded in Compensation to Displaced Person in District Jalandhar—Tenants applied for purchase of a part of it under Section 18 allowed but in the meantime by suit by that landowner, the tenant evicted—No evidence led by the landowners to prove exemption under Section 19-DD, from land being declared surplus—Also the tenant under Section 18—Can purchase it—No infirmity, in the judgment of High Court—Displaced Persons (Compensation and Rehabilitation) Act, 1954, Sections 7 and 8. Supp. Vol. 26 All India Land Laws Reporter 540Section – 19 - SYNOPSIS(1)Claim(2)ResumptionCOMMENTARY

1. Claim--Claimant alleged to have dies in 1954—Sons of the claimant lodging claims for substitution without disclosing the existence of the sisters and the mother—Application given by the sisters and the wife dismissed without permitting them to lead evidence regarding the date of death—Dismissal of application held to be without jurisdiction. Smt. Raj Rani v. Chief Settlement Commissioner, Delhi, 1984(2) All India Land Laws Reporter 71.

2. Resumption--Managing Officer on behalf of the President of India entering into an agreement—Agreement providing that in the event of default in the payment of any installment the possession of the land could be resumed—Only Managing Officer can exercise the power of resumption—Chief Settlement Commissioner acting under Section 24 has no authority—Order passed by him held to be ultra vires—Such an order if confirmed under S. 33 would still be invalid. Manohar Lal v. Financial Commissioner, Haryana, 1984(1) All India Land Laws Reporter 52.

--Section 19—Relevant and material question in this dispute is whether the property in dispute is an evacuee estate and consequently does the possession of the appellant, as a displaced person, need be protected—As held by the court if the appellant is a tres-passer, even a trespasser can be evicted only by a rightful owner—And this title again depends on the question if the property is evacuee property—Held—Judgment of the authorities below are set aside and remitted the matter to Custodian General for disposal in accordance with law—Tehsildar may also be involved as he would be able to collect relevant material from Village Officer to prove the character of property. 1994(2) All India Land Laws Reporter 79--Section 19—Cancellation of the allotment of land without giving notice to legal heirs of the deceased allottee would be a nullity—Under Rule 102, the Managing Officer having passed the order of cancellation against a deed person was a nullity—Upholding of the nullity order at the appellate or revisional stage is of no consequence—Mandatory requirement of S. 19 and Rule 102 of the Rule were not complied with. 1991(1) All India Land Laws Reporter 418Section – 20 - SYNOPSIS(1)Acceptance of bid(2)Exemption from acquisition(3)Suit on basis of title(4)Transfer of Urban LandCOMMENTARY

1. Acceptance of Bid--Settlement Commissioner or other Officer cannot refuse to accept bid without assigning reason—Refusal to disclose reasons cannot be interpreted to mean not bound to give reasons. Surja Ram v. State of Haryana, 1984(2) All India Land Laws Reporter 199.

2. Exemption from Acquisition--Land purchased on 7.6.1980 from Regional Settlement Commissioner of public auction by Petitioner—Acquisition not permissible as land exempted from notice being evacuee land. B.S. Tolani v. Union of India. 1987(2) All India Land Laws Reporter 348.

3. Suit on Basis of Title--Suit on basis of title against unauthorised occupant—Such suit could not be filed till the sale certificate was issued—Course of action for filing suit— Dr. Bhargava vs. Shyam Sunder Seth, 1988(1) All India Land Laws Reporter 614.

4. Transfer of Urban Land--Managing Officer transferring the Urban Land—Financial Commissioner exercising the power under Section 33 cannot set aside the order of the Managing Officer on a mere suspicion that the transfer of Urban Land was contrary of law—Firm finding has to be recorded—No such finding recorded order quashed. Mahant Tara Singh v. Financial Commissioner Punjab, 1982 All India Land Laws Reporter 447.

--Section 20—Delhi Rent Control Act, 1958—Section 14 (i) (e)—Landlord bid for the property in auction by Managing Officer in August 1961—Made final payment in 1983—Sale certificate issued in January 1984—Indicated full ownership since January 1964-- Simple question is from which date a period of 5 years would start for ejectment of the occupant/tenant—Held landlord would be deemed to be owner from 1983 when he made the final payment. 1993(2) All India Land Laws Reporter 593--Section 20—Father of Petitioners was allotted land, to satisfy claim in sub-urban agricultural area—He found his allotment short of the land due—Applied for making good the shortage—Expired—L.R.s pursued the case, gave preference to the land adjacent to the land already allotted—Managing Officers ordered allotment—Tehsildar (Sales) before implementation referred the proposal to Joint Secretary because decision taken by him was subject to the final approval of Joint Secretary (Rehabilitation)—Who differed Petitioner file appeal in High Court—Held, Tehsildar (Sales) cum Managing Officer fully competent to give allotment under Section 20—No approval of higher authority is required by Tehsildar (Sales). Vol. 29 All India Land Laws Reporter 47--Section 20—Auction sale of evacuee property—Purchased by a displaced person—He alleges area less than one stipulated—Offers to purchase on proportionate price—Sale cancelled—Resold at an appreciated price—Appeal against cancellation was dismissed by the Assistant Settlement Commissioner and also appeal dismissed by High Court in limine—Supreme Court find no scope of interference. Vol. 29 All India Land Laws Reporter 225--Section 20—Rule 90(15) of the Rules—Appellant claims to have contributed one half of the sale amount and as such is the owner of one half property—Assertion is in direct conflict with Rule 90(15) which provides that in case two or more displaced persons take the property in auction sale, the sale certificate is to be made out jointly in their names—Sale certificate being in the name of Respondent 2 alone, belies the claim of the appellant—Respondent No.2 admitted in cross examination that “sale deed was in his favour alone there was no associate.” 1993(4) All India Land Laws Reporter 103S. 20—Left behind by muslim migrants, undivided interest in the Shamlat—Allotted to migrants from Pakistan by custodian—Custodian had no title in the Shamlat Deh which is fact vested in the Gram Panchayat—Custodian could not pass on such defective title to all the allottees—Refund can be claimed from the custodian—Alternative remedy is to establish their claims as bonafide purchasers in appropriate forum—Transfer of Property Act, 1882—S. 41; Gram Panchyat, Johar Majra thru Nar Singh v. Union of India: 1996(2) All India Land Laws Reporter (P & H) 505Section 20A-SYNOPSIS(1)Relief(2)Sale Certificate.COMMENTARY

1. Relief--Person basing his rights on these Sections can get no relief as these Sections have been declared ultra vires. Banwari Ram v. Attar Chand 1983(1) All India Land Laws Reporter 122.

2. Sale Certificate--Suit on basis of title against unauthorised occupant—Such suit could not be filed till the sale certificate was issued—Course of action for filing suit arose only when sale certificate was issued. Dr. Bhargava & Co. & Anr. V. Sh. Shyam Sunder Seth, 1988(1) All India Land Laws Reporter 614.

--Section 20-A—Explanation—Administration of Evacuee Property Act, 1950, Section 16—Property by mistake declared to be evacuee property—Certificate issued by Central Government under Section 16 declaring it otherwise—During this period a tenant inducted into the house and property sold to him—Could not be restored to the original owner—He being entitled to compensation only—Provisions of Section 20-A of Displaced Persons Act by virtue of the explanation gave overriding effect—In spite of the certificate issued by Central Government it was open to the Central Government not to allow restoration of the property—Appellant entitled to compensation only. Vol. 26 Supp. All India Land Laws Reporter 150Section – 20B-COMMENTARY--Section 20(1)—Open vacant land with the site allotted to defendants was acquired by the Improvement Trust and allotted to appellants-defendants filed suit claiming ownership of the land—Suit for permanent injunction—In the mean time defendant raised wall on the site—Suit amended to that extent—Held, Managing Officer had no power to transfer the said property to Improvement Trust—Could do so to displaced persons either as compensation or as rehabilitation—Appellants cannot claim any right title or interest in vacant land attached to house allotted to defendants. 1990(2) All India Land Laws Reporter 376Section – 22-COMMENTARYSection 22—Displaced Persons (Compensation and Rehabilitation) Rules, 1955—Rules 90(11) and 90(14)—Rules say that if auction purchaser does not deposit full price within 15 days of the auction, he has no claim towards the property and no order cancelling the sale is necessary--Petitioner lays claim to such property which was “purchased” in 1969 but was not fully paid for—And this land as a part of larger chunk was allotted to other auction purchasers—Possession in revenue records is with auction purchasers—Mortgagees—Successors in interest—Held-- Petitioner has no claim on property which is in possession of the respondents/their mortgagees since 1981—No merit in petition which is dismissed. 1994(2) All India Land Laws Reporter 390Section – 23- SYNOPSIS(1)Cancellation of sale certificate(2)Indivisible Property(3)Defective AuctionCOMMENTARY

1. Cancellation of Sale Certificate--Financial Commissioner coming to the conclusion that the reasons for dismissing the application of cancellation of sale was not correct case remanded for consideration of the application on merits—In the absence of any specific order of cancellation of sale certificate the sale certificate continues to have force, J.S. Chawla v. Ishar Dass, 1984(1) L.L.R. 127.

2. Indivisible Property-House allotted—Occupied by two different evacuees—Evaluation officer reporting that the two portions are indivisible and structural changes would be required to divide them—Property is to be

taken as indivisible. Dayal Chand v. Financial Commissioner, 1982 All India Land Laws Reporter 459.

3. Defective Auction-An auction cannot be set aside simply because another auction in the village was found to be defective. 1980 Land laws Reporter 210.

--Sections 23, 24 and 28—Transfer of urban evacuee agricultural land—Jurisdiction of Chief Settlement Commissioner—Delegated powers to Settlement Officer (Sales) for the purposes of passing necessary orders in respect of all urban agricultural lands—Power properly vested in the Chief Settlement Commissioner and delegated to the Settlement Officer (Sales). 1990(2) All India Land Laws Reporter 521
Section – 24- SYNOPSIS(1)Allotment(2)Allotment of excess area.(3)Bonafide Purchasers.(4)Cancellation of allotment(5)Cancellation of Permanent rights(6)Cancellation of sale(7)Contrary view(8)Challenge to allotment(9)Exercise of Revisional Powers(10)Exercise of suo motu powers(11)Limitation(12)Permanent rights(13)Power of cancellation(14)Power of C.S.C.(15)Words at any timeCOMMENTARY

1. Allotment--Allotment to a claimant—non-claimant has no locus standi to challenge the order passed in favour of a claimant. Dharam Dev v. Roshan Lal Pasricha, 1983(2) All India Land Laws Reporter 627.

--Allotment of land to displaced persons—Setting aside of --Suomotu reference for setting aside allotment on the ground that provisions of para 7.30 of Punjab Records Manual have not been complied with—Rehabilitation Department taking objections regarding non-compliance—Held that the forum of proceedings under the Act should have been resorted to for setting at naught the allotment of the land. Vaishno Mal v. Chief Settlement Commissioner, 1983(2) All India Land Laws Reporter 34.--Financial Commissioner remanding the case to the Chief Settlement Commissioner for a fresh decision to determine the value of the porperty—Chief Settlement Commissioner can hold that the allottee is not entitled to final allotment as being not in continuous possession. Charan Dass v. The Chief Settlement Commissioner, 1983(1) All India Land Laws Reporter 409

2. Allotment of Excess Area--Chief Settlement Commissioner competent to cancel allotment of land in excess of area, the petitioner is entitled to get under the provision of the Act—Excess area forms part package deal properties—Does not remain in compensation pool as it vests in Punjab Government—Managing Officer not competent to sell property. Pala Singh v. Union of India, 1988 (1) All India Land Laws Reporter 366

3. Bonafide Purchasers--Bonafide purchasers from allottee—Land allotted in 1957—Allottee selling the same in 1975—Transferees put in possession—Allotment cancelled in 1970—Transferees held to be bona-fide purchasers—Protected u/s 41 of T.P. Act. State of Haryana v. Smt. Savitri Devi, 1987(1) All India Land Laws Reporter 301

--Bonafied purchasers for value—Tenders purchasing the land from the original allottees—Order cannot be passed under Section 24 once vendees are shown to be bonafide purchasers for value. Bhagwan Dass v. State of Haryana, 1982 All India Land Laws Reporter 677

4. Cancellation of Allotment--Allotment of Suburban land cancelled—Allottee should be given opportunity to adduce evidence—Record received—From Pakistan cannot be considered conclusive evidence. Raizada Luxmi v. Financial Commissioner and Secretary, Rehabilitation, 1986(1) All India Land Laws Reporter 413

--Chief Settlement Commissioner can set aside permanent rights in exercise of revisional power under Section 24—Managing Officer has no jurisdiction to cancel the allotment of land. Gurdev Singh v. Chief Settlement Commissioner, 1985(1) All India Land Laws Reporter 185.--Cancellation of allotment on the ground that allottee had failed to pay mortgage money to Muslim residents with whom land was mortgaged in West Pakistan—Cancellation of allotment by rehabilitation authorities on this ground not permissible. Qandhara Singh v. Union of India, 1983(2) All India Land Laws Reporter 444.--Conveyance deed cannot be cancelled unless notice of 15 days to pay arrears in terms of Section 90(13) is given to the party—Arrears due should be brought to the notice of the person concerned—Cancellation held to be bad. Hans Raj v. Commissioner & Secretary to Government, Haryana, 1983(1) All India Land Laws Reporter 398.

5. Cancellation of Permanent Rights--Cancellation of permanent rights—Notice given which came back un-served—Third person appearing representing himself to be the attorney of petitioner—No power of attorney existing on the record—Proceedings held to be illegal as being without notice and without opportunity. Hari Chand v. Chief Settlement Commissioner, 1982 All India Land Laws Reporter 26.

6. Cancellation of Sale --Finding recorded that the discretion exercised in approving the bid was improper—Sale conducted under some influence—Cancellation can be ordered at any time. Rajinder Kumar v. Chief Settlement Commissioner, 1983(1) All India Land Laws Reporter 670

7. Contrary View--Chief Settlement Commissioner taking a contrary view to one expressed by him while he was holding the office of the settlement Officer—No opinion expressed on merits while acting as Settlement Officer—Subsequent orders passed is not review. Harbhajan Singh JMT v. F.C. (Taxation) Punjab, 1982 All India Land Laws Reporter 484

8. Challenge to Allotment--Challenge to allotment can be made before Chief Settlement Officer power to cancel allotment obtained by fraud, false representation or concealment of material facts in Court of C.S.C.—Civil Court Jurisdiction barred. Smt. Sumitra Devi v. Thoru Ram, 1986(2) All India Land Laws Reporter 368

9. Exercise OF Revisional Powers--Chief Settlement Commissioner deciding in favour of the allottee—Allottee making a representation to the Central Government that the matter may be treated as closed—Letter written by a functionary of the Central Government stating that there is no material for taking any other view and that the matter may be treated as closed—Such a letter written on account of the petition filed by a person whose favour a decision has been given cannot be treated as a exercise of power under Section 33 because the person making the representation cannot be said to be an aggrieved person—Only aggrieved person can seek exercise of revisional power. Union of India v. Avtar Singh, 1984(1) All India Land Laws Reporter 627

10. Exercise of Suo Moto Powers --Suo moto powers—Exercise of—Can be exercised within reasonable time—Delay to be fully explained. Raizada Luxmi Narain v. Financial Commissioner & Secretary, Rehabilitation, 1986(1) I.L.R. 413

11. Limitation--No limitation prescribed for filling revision u/s 24 of the Act —Rule 104(i) is not applicable. Union of India v. M/s Navin Bharat, All India Land Laws Reporter (Vol. 17) Suppl. 481

--No period of limitation was laid down by Rule 104(i) for an application for revision presented to the Chief Settlement Commission under Section 24(i) of the Act. Union of India v. M/s Navin Bharat, All India Land Laws Reporter (Vol. 17) Suppl.481

12. Permanent Rights--Permanent rights conferred—Third person purchasing the property—Protected by the principles indicated in Section 41 of the Transfer of Property Act, 1882 as a bonafide purchaser for value M/s Electric Construction & Equipment Co. Ltd. V. Union of India, 1982 All India Land Laws Reporter 324

13. Power of Cancellation--Land allotted in 1957 by Assistant Registrar-cum-Managing Officer—On reference allotment orders set aside in 1967 by Chief Settlement Commissioner—Power of cancellation vests in Managing Officer or Chief Settlement Commissioner by virtue of Section 24 --Such powers can be exercised within ambit of Clause (2) of Section 24. Union of India v. Baba Surinder Singh Bedi, 1986(1) All India Land Laws Reporter 236

14. Power of C.S.C.--Sub-section (1) gives very wide powers to Chief Settlement Commissioner to examine the legality and propriety of any order of Settlement Commissioner—Cannot be held that sub-section (9) will be applicable if the matter relates to payment of compensation. Bal Krishan Mukhi v. Commissioner, Revenue, Haryana, All India Land Laws Reporter (Vol. 12) Suppl. 342

15. Words ‘At Any Time’--Words at any time—Could not be intended that title of owner should be constantly in jeopardy for an indefinite time particularly when no fault is ascribed to him. Bal Krishan Mukhi v. Commissioner, Revenue, Haryana, All India Land Laws Reporter (Vol. 12)

--Section 24—Crux of the case depends on the question whether father of the sons, who got quasi permanent allotment died in Pakistan before family came over to India or dies in India—Evidence prove his death in Pakistan and as such this allotment in Kishanpura village has been rightly upheld by F.C. --Petitioner herein purchased a piece of land in village Hussainpura several years later—This fact is no ground that the allotment of sons in V. Hussainpura was in accordance with law—Allotment had been obtained by fraud—Respondent No. 4 purchased land from Dharam Singh who in turn had purchased land for respondents 2 and 3—Respondent No. 4 is a bona fide vendee from the date his vendor had purchased that land—No merit in writ which is dismissed. 1994(1) All India Land Laws Reporter 473--Section 24—Displaced Persons (Compensation and Rehabilitation) Rules, 1955—Rule 92—Joint reading of Section and Rule indicate that wide powers are given to authorities to set aside transactions which are fraudulent. 1992(2) All India Land Laws Reporter 490--Section 24—Simply because the petitioner had occupied wrong khasra numbers instead of the allotted ones is no reason to cancel the sale—Already sold khasra numbers could not be resold to the Respondents unless the first sale was cancelled—This could be cancelled when there were reasons or

allegations of fraud, misrepresentation or concealment of material facts—And also these khasra numbers were not available—Petitioners had kept wrong khasra numbers for 6 long years and then woke up to lay his claim on the khasra numbers which had been allotted to him but his petition deserves to succeed—Impropriety is not of such a nature that can be used against him. 1993(1) All India Land Laws Reporter 576S.24—Petitioners assertion that power vested in the Chief Settlement Commissioner under S.24, power to set aside the sale, is controlled by Rule 92, although looks attractive on the face of it but has to be rejected if considered on the anvil of relevancy—Rule are subordinate legislation and that a delegated legislation and that gives the rule a status of being “subordinate” to the provisions of the act—Cannot control the power vested in the Chief Settlement Commissioner by section 24—Held—Passing of the order for restoration of property to respondent 3, all actions subsequent to that including the sale of property by way of action, are rendered void—Rule 92 of the rules may not be looked to for compliance; Dalip Singh v. The Financial Comm. Cum Secy. To Govt. Haryana Rehabilitation Dept.: 1996(1) All India Land Laws Reporter (PH) 117Section 24—No period of limitation is prescribed for invoking the revisional jurisdiction of the Chief Settlement Commissioner- Complaint moved after about 32 years to reopen the issue would certainly be too late to challenge illegal transfer of proprietary rights; Kartar Singh (Died) through L.Rs. v. Financial Commissioner (Planning) Punjab : 1997(2) All India Land Laws Reporter (P&H) 586Section 24—Power of Revision of the Chief Settlement Commissioner-Can ask for the record of the orders passed by officers junior to him to judge the legality of orders passed—But no revision petition is maintainable before the same authority—Cancellation orders passed by his predecessor cannot be reconsidered by him revision—Only a review petition is maintainable—Or order could be challenged by writ petition—If the petitioners were really aggrieved by order of the Chief Settlement Commissioner, they should have filed an application for REVIEW or challenged the order in High Court—Petitioners failed to take any such stamps—Allowed orders to become final—No interference is called for; Jogi Ram Saini v. State of Haryana : 1997(2) All India Land Laws Reporter (P&H) 83Section 24—Evacuee property came to be sold by public auction, sold to highest bidder, sale confirmed—But this higher bidder failed to deposit the amount—Sale was cancelled and property was re-auctioned—Appellant now claims right over it—Held—Unless the sale was duly set aside, property could not be put to resale and sold to appellee—Cancellation of this subsequent sale cannot be said to be vitiated by any error of law warranting interference; Jog Ram v. State of Haryana & Ors.: 1997(3) All India Land Laws Reporter (Supreme Court) 197--Sections 24 and 33—Rules, 1955—Rule 30(c)—Auction of evacuee property held legally—Auction purchaser, predecessor-in-interest of the petitioners, was a displaced person, found eligible for purchase—Gave the highest bid—Price adjusted against the claim due—But sale certificate in spite of reminders and in spite of Central Government ordering not issued—Instead Financial Commissioner, a delegate of Central Government cancelled the sale under Rule 30(c) at the instance of the Haryana Government—Since the property was not of “Package deal” State Government had nothing to do with it—Taking into consideration evidence as well as records produced, held, sale certificate should have been issued and is ordered to be issued. All India Land Laws Reporter 445Sections 24 and 33—Entire land was on lease in the predecessor of in-interest of the petitioner since before partition—Lessors migrated—Property became evacuee property—Petitioner applied for allotment in terms of policy of State—Was allowed only a part of it—Claim for the rest rejected—Revision under Section 33 was also rejected by F.C. as decision was based on new policy to be published yet—New Policy was published later—Petitioner made another application for the claim based on

new policy but the application was rejected and land was put to sale the SAME DAY—This auction was held in violation of the orders of the Chief Settlement Commissioner—Petitioner was effectively precluded from participating with auction held—Auction held is quashed—Property ordered to be reauctioned with liberty to petitioner also to participate; 1998(1) All India Land Laws Reporter 5--Section 24 (1)—Displaced Persons (Compensation and Rehabilitation) Rules, 1955, Rule 90(1)—Urban agricultural plot auctioned—Highest bid much less than reserve price—Regional Settlement Commissioner approved the sale in favour of petitioner—On complaints of irregularity in sale, Chief Settlement Commissioner called for the record of the sale and on account of glaring irregularities, set aside the sale—Petitioner's is in appeal in High Court—Held—Order accepting bid and completing sale made by Regional Settlement Commissioner under Rule 90(1) of Rules 1955 is such that can be reviewed by the Chief Settlement Commissioner under Section 24(1) of the Act—Chief Settlement Commissioner could revise it also—No merit in appeal. 1992(2) All India Land Laws Reporter 51--Sections 24(2), 33 and Arts. 226, 227 of Constitution of India –Writ Petition filed before High Court—Matter considered--- Allotment of land with wrong decision and fabricating record-- Interference by High Court—Valid.--Held, in other words, inspite of the opportunity given to the appellants to support the allotment in their favour, they never challenged the correctness, of the Jamabandi on the basis of which both the Chief Settlement Commissioner and the revisional authority came to the conclusion that the appellants had no occupancy right in the land in Pakistan. As there was a definite finding in the orders of these authorities that the appellants had no occupancy right in the land in Pakistan based on relevant materials and the interference therefrom could only be that the appellants obtained the allotment by making false representation we think that the High Court was justified in declining to exercise its jurisdiction under Article 226 or 227 of the Constitution. Vol. 20 Supp. All India Land Laws Reporter 201Section – 25-SYNOPSIS Clerical MistakesCOMMENTARY Clerical Mistakes--Ratification of mistakes—Clerical mistakes regarding boundary indicated in conveyance deed--Managing Officer is competent to rectify the same under Section 25--Chief Settlement Commissioner approving the correction made by the Managing Officer—Interference not to be made under Section 33. Ram Nath v. Financial Commissioner, 1983(2) All India Land Laws Reporter 165--Financial Commissioner exercising the powers of Central Government—Clerical Mistakes rectified by the Managing Officer and the same approved by the Chief Settlement Commissioner-- Financial Commissioner has no jurisdiction to interfere when he comes to the conclusion that the mistakes rectified by the Managing Officer was duly approved by the Chief Settlement Officer, Ram Nath v. Financial Commissioner, 1983(2) All India Land Laws Reporter 165Section – 26-SYNOPSIS ScopeCOMMENTARY

1. Scope- (1)Scope of—Where the Chief Settlement Commissioner wants to accept a reference made by the Managing Officer it is necessary to hear the persons likely to be affected. The persons affected should be given notice of the date to which the case stands adjourned. 1961 PLR 160.

2. Section 148 of the Code of Civil Procedure is not applicable to proceedings under the Act. 1972 PLR 749.

In a suit for declaration filed by a person claiming to be a claimant under the Displaced Persons (Compensation & Rehabilitation) Act, it was held that the conclusion of the Courts below should not be interfered within a second appeal unless it is shown that the decision is tainted with any illegality. AIR 1970 Delhi 85. Section – 27- SYNOPSIS

1. Finality

2. Jurisdiction

COMMENTARY

1. Finality--This section confers finality to an order made by an officer or authority acting under this Act. This cannot be challenged in any civil court. AIR 1961 Bombay 69.

2. Jurisdiction--An order was passed by the Managing Officer under Section 19. It could be challenged by way of an appeal under Section 22. The appeal was competent before the Chief Settlement Commissioner. This was not resorted to. However, an appeal was preferred to the Additional Custodian of Property and further revision was preferred to the Deputy Custodian General who had no jurisdiction in the matter. It was held that the order of the Managing Officer became final under section 27. 1961 PLR 420.

Civil Courts jurisdiction is barred whenever remedy is provided under a special provision. 1982 LLR 414. However, if the authorities under the Act, without jurisdiction then the bar would not be attracted 1982 LLR 450. A decision given by the authorities that the plaintiff had entered into lease of evacuee property and that certain amounts were due from him under the lease cannot be called in question in a Civil Court. 1969 PLR 49. As the Settlement Commissioner is competent to determine the liability of a person arising out of a lease of evacuee land, consequently no action would be maintainable in a Civil Court. AIR 1968 Punjab 40. However, this Act does not empower any authority to determine finally the question of title to property left behind in Pakistan. 1966 Cur, LJ 794. A policy decision was taken by the Punjab Government to sell land to lessees from Muslim Evacuees. The request to enforce policy decision and to purchase the land was turned down by the Government. The land ceased to form part of the compensation pool. It was held that the Civil Court could entertain a dispute AIR 1963 Pb. 405. The finality attached under Section 27 does not bar the Chief Settlement Commissioner from re-opening a matter under Section 24. ILR 1969 (1) Pb. 554. Such a bar may also not operate where the property has never been declared as an evacuee property. AIR 1980 SC 1906. Section 27 would bar a suit where a sale of property forming part of compensation pool is sought to be challenged on the ground that the sale was collusive or that it was not properly published. AIR 1974 Delhi 151. A Settlement Commissioner did not comply with statutory obligation under Rule 90(12) to make adjustment out of a compensation towards the balance of payment of price due in respect of property sold by auction. It was held that the

jurisdiction is not barred. ILR 1972 (1) Delhi 663. The Central Government has no power to acquire property which is not evacuee property. In any case it has no power to acquire property which has not been declared an evacuee property. Accordingly it was held that a suit filed under the Treasury Act for its possession would be maintainable. 1976 All LJ 190. Where an allotment was cancelled by the Managing Officer then the Civil Court would not have any jurisdiction in the matter. 1972 PLR 381.--Section 27, 22, 23, 24 and 25—Section 27 specifically bars the jurisdiction of civil courts for challenging cancellation orders passed under this Act—S.25 provides that setting aside of ex parte orders is not a review of orders. 1991(1) All India Land Laws Reporter 418Section –29
SYNOPSIS(1)Applicability(2)Eviction(3)Purpose of Section(4)StatusCOMMENTARY

1. Applicability--Persons to whom provisions of Section 29 would apply are persons specified in notification which the Central Government may issue under sub-section (2). Sabra Begum v. Mohd. Ikhlal, 1986(2) All India Land Laws Reporter 376

2. Eviction--Property belonging to Custodian—In possession of tenant—Appellant purchasing the same from auction purchaser—Can evict only through ejectment order under Rent Act. Balraj Krishan v. Hari Singh, 1987(1) All India Land Laws Reporter 15.

3. Purpose of Section--Purpose of Section is to transform a person in occupation of property into a tenant on specified terms and conditions. Baldev Raj Batra v. Krishan Lal, 1986(2) All India Land Laws Reporter 561

4. Status --Status of a person in occupation—Whether unauthorized occupant or tenant—Person in possession of the property as tenant under the custodian—Subsequent transfer of the property to another person—Person in possession as tenant under custodian cannot be equated with an authorized occupant. Krishan Lal v. Manohar Lal 1983(1) All India Land Laws Reporter 642

--Section 29—Deemed tenant—To enjoy special protection from ejectment possession of suit premises must be authorized and legal—Occupation having been permitted by an authority authorized to permit—Appellants held to be authorized occupants by two Courts below—Appeal liable to be dismissed. 1992(1) All India Land Laws Reporter 116Section – 30 -SYNOPSISDivisible PropertyCOMMENTARY

1. Devisible Property --Rule 30—Possession of property—Not being claimant—Transfer of occupation under the Act—Scope and consideration. Vol. 17 Supp. All India Land Laws Reporter 491

--Sections 30, 33 and 40—Displaced Persons (Compensation and Rehabilitation) Rules, 1955, Rr, 25 and 26—Two divisible portions of property occupied by two displaced persons—One having a verified claim and the other non-claimant—Living as such for over 40 years and have obviously found it convenient to do so—Litigation for 40 years with justice swaying this way or that—During this Chief Settlement Commissioner held two independent properties can be treated as in occupation of two displaced persons, one claimant and the other non-claimant—Are as such entitled to transfer to property under Rs. 25 and 26 of the Rules—This did not find favour with the High Court—Supreme Court upheld the findings of the Chief Settlement Commissioner and thus put an end to over 40 year's litigation. 1990(2) All India Land Laws Reporter 114Section – 33-SYNOPSIS(1)Allegation of fraud(2)Auction sale(3)Cancellation of auction sale(4)Cancellation of sale(5)Capacity in which order passed(6)Compensation pool

6A.

) Dual charge(7)Exercise of powers(7A)Functionary of Government—Unauthorised possession(8)Package Deal Property(8A)Quasi permanent allotment(9)Review(10)Revisional Jurisdiction(11)Revisional powers(12)Selection of Land(13)Time limit(14)Unauthorised occupant(15)Word occupationCOMMENTARY

1. Allegation of Fraud--Allegation of fraud on compensation pool—Financial Commissioner held to be justified in interfering with the impugned order—Petition dismissed. Mehnga Singh v. Financial Commissioner (Revenue) Punjab, 1985(2) All India Land Laws Reporter 143.

--Authorities can extend time for deposit of purchase money—Such an order does not amount to Review. Surinder Singh v. Central Government 1987 (1) All India Land Laws Reporter 250.

2. Auction Sale--Petitioner purchasing evacuee land in open auction-Sale confirmed—Cannot be cancelled on the ground that the other party had offered higher bid. Haria v. Financial Commissioner, Revenue, 1982 All India Land Laws Reporter 211.

3. Cancellation of Auction Sale--Cancellation of auction sale—Central Government has the power to set aside the order of cancellation and issue declaration which it considers necessary. Surinder Singh v. Central Government, 1987(2) All India Land Laws Reporter 469.

Cancellation of Auction held again -- Subsequent purchaser have a right to opportunity of hearing as they are likely to be adversely affected. Surinder Singh v. Central Government, 1987(2) All India Land Laws Reporter 469.

4. Cancellation of Sale --Financial Commissioner coming to the conclusion that the reason for dismissing the application of cancellation of sale was not correct—Case remanded for consideration of the application on merits—In the absence of any specific order of cancellation of sales certificate, the sale certificate continues to have force. J.S. Chawla v. Ishar Dass, 1984(1) All India Land Laws Reporter 127.

--Sale of Property by public auction—Auction purchaser failing to deposit the amount within the stipulated period—Authorities cancelling sale without notice—Order set aside in the exercise of power under Section 33 and the case remanded to determine as to whether on the failure to deposit the auction money the sale stood automatically cancelled or not. Rajinder Singh v. Chief Settlement Commissioner, 1983(2) All India Land Laws Reporter 181--Auction Purchase Purchasing the property—Auction set aside on the basis of High Court decision—Decision of High Court upset by Supreme Court—Ultimately authorities deciding in favour of the auction purchaser—No interference should be made—Litigation should have some end. 1989(1) All India Land Laws Reporter 65

5. Capacity in Which Order Passed--Rehabilitation Department filing petition for setting aside order passed by CSC—Contending that property in dispute was package deal property and CSC was not competent to pass orders regarding transfer of land in question—Contention rejected—CSC was competent to exercise powers under both the capacities namely CSC and Under Secretary Rehabilitation-cum-Settlement Commissioner—Order passed in one capacity would not be deemed to be void on the ground that it has not been passed under the capacity in which it ought to have been passed. State of Haryana Rehabilitation Dept. v. Bhagwan Singh and Kartar Singh, 1988(1) All India Land Laws Reporter 394.

6. Compensation Pool --Property in Question sold to petitioner—Auction Confirmed—Sale certificate issued—Property goes out of compensation pool—Cannot be transferred subsequently to any one on basis of possession. Sukh Dyal v. State of Punjab, 1985(2) All India Land Laws Reporter 44

6A. Dual Charge --Rehabilitation Department filing petition for setting aside order passed by CSC—Contending that property in dispute was package deal property and CSC was not competent to pass orders regarding transfer of land in question—Contention rejected—CSC competent to exercise/powers under the both capacities namely - CSC and Under Secretary Rehabilitation-cum-Settlement Commissioner—Order passed in one capacity

would not be deemed to be void on the ground that it has not been passed under the capacity in which it ought to have been passed. 1988(1) All India Land Laws Reporter 394

7. Exercise of Powers --Powers of Central Government—Under Section 33 can be exercised at any time suo moto—Words at any time would not tolerate any period of limitation so long as the order was passed within reasonable time. Rajinder Singh v. Chakravarti Malhotra, All India Land Laws Reporter (Vol. 12) Suppl. 549

7A. Functionary Government – Unauthorised Possession--Government servant in unauthorized possession of property—Can he be allowed the benefit of transfer—No—Government being Custodian of public properties as trustee for larger Community of Citizens, no functionary of Government can be allowed to encroach upon Govt. properties and thereafter transfer of proprietary rights, 1988(2) All India Land Laws Reporter 668

8. Package Deal Property--Secretary to Government exercising powers under Section 33 of the Act competent to decide cases relating to Package Deal Property. Union of India v. Bhagirath, 1985(2) All India Land Laws Reporter 92

--Managing Officer under the Displaced Persons Act has no jurisdiction to sell the land which was Package Deal Property. Pala Singh v. Union of India, 1987(2) All India Land Laws Reporter 352--Package deal property auctioned—Order of Deputy Secretary Rehabilitation-cum-Settlement Commissioner not assailable under Section 33. Milkha Singh v. State of Punjab, 1983(1) All India Land Laws Reporter 636--Petition under Section 33 cannot be treated to have been filed under Rule 15 of Package Deal Property Rules. Milkha Singh v. State of Punjab, 1983(1) All India Land Laws Reporter 636

8A. Quasi Permanent Allotment--Allotment made under the Scheme dealing with quasi permanent allotment—Scheme/allotment cancelled—Fresh application filed in 1967 seeking allotment—Application filed without proper appraisal on merits—Application not taken into consideration in view of the instructions of executive nature issued by the Additional Financial Commissioner—Application held to be wrongly rejected. 1989(1) All India Land Laws Reporter 319

9. Review--No power of review vests in the Financial Commissioner exercising power under Section 33—Interference can be made if the party and the property is different. Harbans Singh v. The Union of India through the Secretary Rehabilitation Department, 1983(1) All India Land Laws Reporter 364

10. Revisional Jurisdiction--Sanction does not provide a reservoir of power from which revisional jurisdiction can be exercised more than once in respect of the same order. Union of India v. Avtar Singh, 1985(1) All India Land Laws Reporter 76

11. Revisional Powers--Revisional power can be exercised only once—Power once exercised gets exhausted and cannot be restored again and again (Note :- However in this case it was held that there was no exercise). Union of India v. Avtar Singh. 1984(1) All India Land Laws Reporter 627

--Revisional power—Is that of Central Government and not of Punjab Government—. Union of India v. Avtar Singh. 1985(1) All India Land Laws Reporter 76
Section confers a very wide revisional power of the Central Government--No Limitation is prescribed—Such power of wide plentitude conferred to set right any illegal, unfair, unjust or plainly untenable order. Union of India v. Avtar Singh 1985(1) All India Land Laws Reporter 76

12. Selection of Land --Allotment made of Urban Agricultural Land by the Regional Settlement Commissioner—Question of option on the part of lessee does not arise—Revisional authority cannot interfere with the Selection made by the Regional Settlement Commissioner. Municipal Committee Samana v. F.C. (Taxation) Punjab, 1982 All India Land Laws Reporter 533

13. Time Limit--Exercise of Power by Central Government—No time limit prescribed—Power should however be exercised within reasonable time depending on circumstances of each case—Property auctioned in June 1964—Petition filed in January 1975 against order of Chief Settlement Commissioner dated 27.10.1965. Mehnga Singh v. Financial Commissioner(Revenue) Punjab, 1985(2) All India Land Laws Reporter 143

14. Unauthorised Occupant --Unauthorised occupant is entitled to purchase land under his occupation—Right to purchase and price to be determined on the prevalent on the date of application. Bhagat Singh v. Financial Commissioner, Revenue, Haryana. 1987(2) All India Land Laws Reporter 152

15. Words 'Occupation'--Word 'Occupation' denotes occupation in one's own right—Case of a person in occupation as licensee at the sufferance of an allottee is not covered by the word 'Occupation' –Petitioner found to be not in occupation of the city in dispute—Mere payment of rent held to be of no consequence. 1988(2) All India Land Laws Reporter 71

--Section 33—Punjab Package Deal Properties (Disposal) Act, 1976—Section 10(4)—Two streams of litigation, one under the State Act and the other under the Central Act, are available to the litigants—These are clearly distinguishable and cannot be intermixed at the discretion of the litigants—In the present case an appeal against the orders of Chief Sales Commissioner has to be challenged before the Commissioner under the State Act instead of challenging it direct before the Financial Commissioner under the Central Act—Petition dismissed. 1994(1) All India Land Laws Reporter 551--Section 33—Part of land left in Pakistan was mortgaged—On allotment of the land in India, the allottee failed to deposit mortgage money for 7 years—Allotments of such part of land was cancelled and put up for auction—Purchased by respondents—Challenged by the original allottee and on his death, his son, present appellant stepped into his shoes—Writ was allowed “to the extent it relates to respondents”—Appellant has filed Letters Patent Appeal—Held, appellant did not take steps to deposit mortgage money for more than 7 years—No ground is made out to interfere with the discretion exercised by the learned Single Judge—Appeal wholly lacking in merit, is dismissed. 1994(1) All India Land Laws Reporter 214--Section 33—Rules 1965—Rule 90—In spite of opportunity allowed to make payment of the 20% of the sale money, the auction purchaser failed to do so—Under Sub (8) of Rule 90, initial deposit is liable to be forfeited. 1993(2) All India Land Laws Reporter 298--Section 33—Second defendant failed to pay the sale price after sale of property to her—Property was reaucted and petitioner purchased it—Deed of conveyance was executed and registered—Second respondent filed petition for purchase of property—Property as per rules is to be sold to the persons in possession and respondent No.2 has been found not to be in possession—Petitioner is in possession—Respondent never disclosed the fact of sale of property—Order of Central Government delegate cannot be sustained and is set aside—Auction sale in favour of petitioner is upheld. 1994(3) All India Land Laws Reporter 65--Section 33—Auction Sale—Only the cultivators in possession are entitled to transfer of the land under the rules framed by the State Government for disposal of rural package deal properties—Petitioner or his predecessor-in-interest was not cultivating possession since Kharif 1960—was not entitled to the transfer of land—Petition fails and is dismissed—The Punjab Package Deal Property (Disposal) Rules, 1976—Rr. 5 and 6. 1994(3) All India Land Laws Reporter 79--Section 33—Transfer of Property Act, 1882—Section 41—Predecessor-in-interest of the petitioner was allotted land in lieu of land left by him in Pakistan—Levelled the land and developed it into plots at considerable expenditure and sold the plots to numerous persons who raised constructions on it—Ten years thereafter the department found that some land in excess of entitlement was allotted—Wanted the allottee to pay the price @ Rs.35/- per sq.yard—Petitioner make three alternative offers but the department did not accept these—One was to charge the price at which he had sold plots—Petitioner moved the Court by a writ petition—Held, Petitioners offer was genuine and right to be accepted—Numerous persons with houses built could not be dispossessed under Transfer of Property Act, Section 41—Department will charge price of the excess area at which allottee had sold

plots to vendees. 1994(2) All India Land Laws Reporter 375--Section 33—Question is if a Central Government delegate can review in suo moto reference orders of the other Central Government delegate of the same status, exercising same powers of the Central Government under Section 33 of the Act—Held—It was not open to the delegate purportedly exercising the powers of the Central Government to set aside the order of the Financial Commissioner (R) who is also delegated with power of the Central Government. 1994(2) All India Land Laws Reporter 448--Section 33—Financial Commissioner (exercising the powers of the Central Government) non suited the appellant on grounds of the application being belated—Authority exercising those powers under Section 33 of the Act cannot be compelled to decide a case irrespective of the delay in putting in the application. 1990(2) All India Land Laws Reporter 521--Section 33—Punjab Package Deal Properties (Disposal) Act, 1976—Section 10(4)—Two streams of litigation, one under the State Act and the other under the Central Act, are available to the litigants—These are clearly distinguishable and cannot be intermixed at the discretion of the litigants—In the present case an appeal against the orders of Chief Sales Commissioner has to be challenged before the Commissioner under the State Act instead of challenged it direct before the Financial Commissioner under the Central Act—Petition dismissed. 1994(1) All India Land Laws Reporter 551--Section 33—Suo moto proceedings—Initiated by Settlement Commission (C) after 4 years—Evacuee Urban agricultural plot allotted to deceased Mahant, inherited by the present respondent by inheritance as per Will—Managing Officer (UL) held the respondent eligible for transfer of the land—Settlement Commission (C) order setting aside the transfer and the conveyance deed executed in favour of the respondent on various grounds—Grounds challenged as frivolous—No rebuttal of averments was made by the state counsel on the ground that—Rehabilitation Department had not made available the relevant record—Further held by the respondent that in case the lease had expired, respondent remained in possession of the said land continuously—As such this was definitely a case of holding over --And of long possess—Held—Objection that the order of M.O. (UL) was wrong is not tenable as the allottee was in actual possession—And mistake had been rectified in a subsequent order --As for the fixation of price—The valuation was approved by the Assistant Settlement Commissioner in 1967 and having not been appealed against had attained finality—Reference by the state fails—Section 33 is not attracted. 1992(1) All India Land Laws Reporter 589Ss.33 and 22-Writ petition is against the orders of F.C., Rehabilitation Haryana issued under S.22, declaring land under mortgage to be restored to respondent No.3 which allotment was cancelled as back as 1960 for non-payment of mortgage money—Contention is that no appeal having been filed by respondent No.3, Order of the Managing Officer (Redemption) such orders had become final—Land in dispute was purchased by petitioner in auction, being higher bidders—Chief Settlement Commissioner was not vested with any power to annul the sale and after that long period—Held—Power vested in the Chief Settlement Commissioner are wide and pervasive—Can be exercised by him in case the appeal is rejected by the Competent Authority or even where no appeal has been preferred—"May at any time call for record" shows the intention of the legislature to clothe the Chief Settlement Commissioner with power to pass orders when he finds orders passed by a subordinate authority suffers from illegality; Dalip Singh v. The Financial Comm.-cum-Secretary to Govt. Haryana Rehabilitation Dept.: 1996(1) All India Land Laws Reporter (P&H) 117Section – 34 - SYNOPSIS

1. Delegation of Powers

2. Revisional Powers

3. Word 'Also'

4. Revise Decision

COMMENTARY

1. Delegation of Powers--In the absence of a notification delegation powers under Section 10 it cannot be said that the Settlement Officers and the Settlement Commissioner are the delegates of the Central Government. AIR 1964 Pb. 33.

This Section confers power on the Central Government to delegate the authority on any officer. This, however, does not mean that an officer otherwise entitled to act would be debarred from so acting. AIR 1962 Pb. 164 Where power has been delegated under Section 3(1) then there is no question of a further delegation being there under Section 34(1). AIR 1976 Delhi 265. In exercise of the delegated power under Section 34(1) and in pursuance of the guidelines indicated by the Central Government it was prescribed that the rent and damages would be at six times the land revenue for being in possession as an unauthorized possession. This notification was held to be valid. AIR 1979 Punjab 99. Section 34(2) empowers the Chief Settlement Commissioner to delegate all or any of the powers to the Joint Chief Settlement Commissioner, Deputy Settlement Commissioner and Additional Settlement Commissioner or Assistant Settlement Commissioner. 1981 All India Land Laws Reporter 52

2. Revisional Powers -- An additional Settlement Commissioner or Regional Settlement Commissioner cannot in the exercise of powers of revision delegated to them by the Chief Settlement Commissioner review their own earlier decisions on grounds which do not fall within the scope of Section 25. AIR 1967 Bom. 312.

A revision was disposed of by the Deputy Secretary to Government. Plea that there was no gazette notification u/s 34 (1) authorizing him was raised for the first time in the grounds of appeal. This plea was not pressed. It was held that this cannot be allowed to be raised in a second appeal. AIR 1974 Delhi 265.

3. Word 'Also'--The word 'also' as used in Section 34(1) indicates that the delegation of power is in addition to additional machinery established by rules of business. AIR 1970 Delhi 171.

4. Revise Decisions--A Joint Secretary to Government of India who is also Chief Settlement Officer can revise decisions of Chief Settlement Officer. AIR 1974 Delhi 181.

Section – 36- SYNOPSIS

1. Jurisdiction of Civil Court.

COMMENTARY

1. Jurisdiction of Civil Court--Civil Court jurisdiction barred regarding act done by officers empowered under the Act. Smt. Sumitra Devi v. Thoru Ram, 1986(2) All India Land Laws Reporter 368

--Section 36—64 sq. yards of land, between the house of appellant and defendant No. 1 to the half of which appellant had a right to purchase, was sold to defendant No. 1 by Tehsildar (Sales) with the help of defendant No. 2—This allotment was challenged—Trial Court negated the plea that Civil Court had no jurisdiction to entertain suit—In appeal High Court set aside the orders of the Trial Court. 1991(1) All India Land Laws Reporter 462

Section –40-SYNOPSIS

1. Allotment

2. Press Note

COMMENTARY

1. Allotment--Allotment of land to persons who have built Khokhas—Not mandatory. Gian Singh v. Secretary to Government Punjab, Rehabilitation Department, 1983(1) All India Land Laws Reporter 300.

2. Press Note--Order passed contrary to the press note by the Chief Settlement Commissioner—No bar—Order is valid, Gian Singh v. Secretary to Government Punjab, Rehabilitation Department, 1983(1) All India Land Laws Reporter 300

--Sections 40, 9 and 4—Displaced Persons (Compensation and Rehabilitation) Rule 1955—Rule 17, 18, 19, 20 and 21—Compensation for claim and the right of a claimant as a legatee under a Will are different—Cannot be clubbed together Dispute under Section 9 of the Act, could relate to a right by inheritance to or by succession under a Will of another claimant --Has to be paid separately—Rule 18 show different kinds of claims for properties left in Pakistan which can be clubbed together—Such reference is to an individual's claim to compensation and not to claims of different

person which could by transfer or devolution vest separately in an individual—And there is nothing in the Act to prevent a claimant from making a gift or a Will in respect of the amount he may be entitled to get. 1993(2) All India Land Laws Reporter 186