

(1984) 01 P&H CK 0074

In the Punjab And Haryana At Chandigarh

Case No : Regular Second Appeal No. 1291 of 1977

Amrik Singh, Deceased, Represented By His Legal
Representatives Manjit Kaur and Others

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 02-01-1984

Acts Referred:

Displaced Persons (Compensation and Rehabilitation) Act, 1954 — Section 33

Citation : (1984) 01 P&H CK 0074

Hon'ble Judges : J.M. Tandon, J

Bench : Single Bench

Advocate : H.L. Sarin, with Mr. M.M.S. Bedi, for the Appellant; D.V. Sehgal with Mr. P.S. Rana and Mr. B.R. Mahajan, for the Respondent

Final Decision : Dismissed

Judgement

J.M. Taadon, J.—House No. 106/13, Hussainpura, Amritsar is an evacuee property. Amrik Singh (now deceased and represented by his legal representatives Manjit Kaur and Ors. occupied the upper Moor of this house whereas Anant Ram (now deceased) occupied the ground-floor. Amrik Singh was a non-claimant whereas Anant Ram was a claimant. The Rehabilitation Authorities offered the house for sale to Anant Ram, bat he declined to purchase it. The house was originally valued at Rs. 8073/-. Later on it was revalued at Rs. 11382/-. Amrik Singh filed an appeal against the order revising the value of the house which was dismissed by the Assistant Settlement Commissioner and also prayed for stay of the auction of the house. The interim stay was declined by order dated February 18, 1960, but a direction was ordered to be issued that the transferee be told that the sale would be void if the revision was accepted. The direction of the Chief Settlement Commissioner was conveyed to the Managing Officer vide Memo, dated February 23, 1960. The house was, however, auctioned on February 24, 1960, when the direction of the Chief Settlement Commissioner had not reached the Managing Officer. Parbati (now deceased) and represented

by her son and legal representative Gurbaksh Singh Respondent) gave the highest bid of Rs. 11100/-. Her bid was accepted on March 4, 1960. The interim direction issued by the Chief Settlement Commissioner was not conveyed to Parbati at any time. The entire amount of the bid offered by Parbati has since been adjusted from her claim.

2. The Chief Settlement Commissioner accepted the revision of Amrik Singh vide order dated July 1, 1960, with the result that the original valuation of the house at Rs. 8073/- stood restored.

3. Under the press note issued by the Rehabilitation authorities, the non-claimants could be transferred the evacuee property in their occupation in case its value was Rs. 10,000/- and they deposited one-fifth of its price by October 31, 1959. which date was extended till January 31, 1961. Amrik Singh was given the offer to pay one-fifth price of the house before January 31, 1961 He did not pay the same, The Managing Officer vide order dated February 20, 1961, withdrew the offer made to him. Amrik Singh filed an appeal against the order of the Managing Officer dated February 20, 1961, which was dismissed by the Settlement Commissioner vide order dated November 28, 1961. Amrik Singh then filed a revision which was dismissed by the Chief Settlement Commissioner vide order dated August 20, 1962.

4. The Rehabilitation authorities issued another press note extending the date for deposit of one fifth price of the evacuee property in occupation of the non-claimants to August 31, 1962. On August 17, 1962, the Managing Officer again extended the order to Amrik Singh for purchase of the house if the same was still available for sale. This offer was made on the basis of an affidavit of Amrik Singh wherein he had averred that the house was still available for sale. The Managing Officer, however, withdrew the offer on February 12, 1963, on the ground that the house had already been auctioned Amrik Singh filed an appeal against the order of the Managing Officer dated February 12, 1963, which was dismissed by the Settlement Commissioner vide order dated July 17, 1964. He then filed a revision which was dismissed by the Chief Settlement Commissioner vide order dated March 2, 1965. He then filed a petition u/s 33 of the Displaced Persons (Compensation and Rehabilitation) Act, (hereinafter called the Act") which was dismissed on April 5, 1965. He assailed the orders of the Rehabilitation Authorities in C.W.P. No. 1831 of 1965 which was dismissed as withdrawn on September 5, 1966.

5. On October 30, 1961, Amrik Singh filed a civil suit challenging the sale of the house by auction in favour of Parbati which was dismissed as withdrawn on September 1, 1962. On February 12, 1963, he filed another civil suit which was dismissed as withdrawn on March 31, 1964. On November 16, 1964, he again filed a civil suit for a similar relief which was dismissed by the trial Court vide order dated March 22, 1974. He then filed an appeal against the judgment and decree of the trial Court which was dismissed on March 14, 1977. Amrik Singh Appellant has assailed the order of the trial Court and that of the Appellate Court

in the present regular second appeal.

6. The Learned Counsel for the Appellant has argued that the value of the house in dispute being Rs. 8073/- it should have been transferred to its occupant Amrik Singh. It was wrongly auctioned in favour of Parbati. The sale by auction in favour of Parbati is void. A contrary view taken by the Courts below is liable to be set aside. The contention is without merit. The relevant parts of Rules 22 and 26 of the Displaced Persons (Compensation and Rehabilitation) Rules (hereinafter the Rules) read as under:

22 Classes of acquired evacuee property which may be allotted. The following classes of acquired evacuee property shall ordinarily be allotted, namely;

(a) any residential property in the occupation of a displaced person, the value of which does not exceed fifteen thousand rupees.

26. Transfer of acquired evacuee property which is an allottable property in sole occupation of person who does not hold a verified claim:

When an acquired evacuee property which is an allottable property is in the sole occupation of a displaced person who does not hold a verified claim, the property may be transferred to him.

7. The value of the property detailed in Rule 22(a) was Rs. 10,000/- and it was increased to Rs. 15,000/- in 1962. It is clear from the text and tenor of Rule 26 that the property which is allotable may be transferred to a sole occupant who does not hold a verified claim. In other words, a non-claimant occupant has no statutory right to get the property in his occupation transferred at the reserve price. The Rehabilitation authorities have not exercised discretion in favour of Amrik Singh in the matter of transfer of the house in dispute. Apart from the fact that Amrik Singh was not the sole occupant of the house in dispute, he cannot claim the transfer of house at the reserve price by way of right.

8. The house in dispute was auctioned on February 24, 1960, and the highest bid offered was that of Parbati for Rs. 11100/-. Her bid was accepted on March 4, 1960, and the entire price of the house has since been recovered from her claim. The sale by auction in favour of Parbati has not been set aside so far by the Rehabilitation authorities. In view of the fact that the sale by auction of the house in dispute in favour of Parbati stands, the question of its transfer at the reserve price to Amrik Singh does not arise. Section 36 of the Act reads: "36. Bar of jurisdiction.-Save as otherwise expressly provided in this Act, no civil Court shall have jurisdiction to entertain any suitor 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."

9. It has already been held above that the matter of transfer of house in dispute in favour of Amrik Singh was within the exclusive jurisdiction of the Rehabilitation

authorities. The authorities have exercised the discretion against him. It is obvious that the intra vires discretion exercised by the Rehabilitation authorities against Amrik Singh cannot be assailed in civil Court u/s 36 of the Act.

10. The Learned Counsel for the Appellant has argued that the Chief Settlement Commissioner had issued an interim direction on February 18, 1960, in revision filed by Amrik Singh against the revaluation of the house that the sale of the house would be void if his revision was accepted. The revision of the Appellant was accepted. In the meantime, the house was put to auction on February 24, 1960. In view of the interim direction the sale by auction in favour of Parbati is to be treated as void. This contention is also without merit. Parbati was not a party in the revision filed by the Appellant. The direction issued by the Chief Settlement Commissioner was not conveyed to her at any time. This apart, the Appellant cannot invoke the direction in the face of the discretion exercised by the Rehabilitation authorities in the matter of transfer of house in dispute against him.

11. In the result, the appeal fails and is dismissed with no order as to costs.