
(1979) 11 P&H CK 0016
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 1299 of 1977

Daljit Singh and others	Vs	APPELLANT
The Chief Sales Commissioner, Punjab, Jullundur and another		RESPONDENT

Date of Decision : 22-11-1979

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1979) 11 P&H CK 0016

Hon'ble Judges : G.C. Mital, J

Bench : Single Bench

Advocate : A.S. Cheema, for the Appellant; N.S. Bhatia, for the Respondent

Final Decision : Allowed

Judgement

Gokal Chand Mital, J.—This order will dispose of C. W. Nos. 1299, 2298 and 2634 of 1977, as counsel for the parties are agreed that common questions arise therein.

2. In all the three cases, the private Respondents were allowed to purchase the land as Harijans in restricted auctions, and in violation of the conditions of auction not to transfer the property for a period of ten years, they effected transfers, on account of the transfers made in violation of the terms and conditions of the auction, notices were issued to the Petitioners, who are transferees from the original auction purchasers, as also to the auction-purchasers and after hearing them the auction sales in favour of the private Respondents were cancelled by the Chief Sales Commissioner, Punjab, Jullundur. The subsequent transferees have come up in writ petitions under Article 226 of the Constitution of India to impugn the orders of cancellation of the auction sales.

3. All other points are covered by a Division Bench decision of this Court in C. W. No. 2861 of 1976 - Joga Singh v. Deputy Secretary, Rehabilitation, C. W. No. 2861 of 1976. decided on 4th of October, 1979, wherein it was held that the Deputy Secretary, Rehabilitation, has the power to cancel the auction sale if the

original auction-purchaser effects transfer within the period of ten years and, therefore, those questions are no longer open to the Petitioners in these writ petitions.

4. The next point urged by the counsel for the Petitioners is that the impugned orders are passed after the enforcement of the Punjab Package Deal Properties (Disposal) Act, 1976 (hereinafter called the Act), and the power of cancellation u/s 10 could be exercised by the Chief Sales Commissioner provided he was appointed as such by issue of a notification in the official Gazette as provided u/s 3 of the Act. He has further pointed out that at the time the order was passed by the Chief Sales Commissioner in these cases, no notification had been published u/s 3 of the Act and, therefore, the impugned orders cannot be said to have been passed by a duly authorised person. He has invited my attention to Gazette Notification No. 11696-A/ EA dated 17th of June, 1976, published on 11th of May, 1979, whereunder power u/s 3(1) of the Act were conferred on the Deputy Secretary Rehabilitation, as Chief Sales Commissioner, to the State of Punjab for purposes of performing the functions assigned to him by or under the Act in relation to the package deal properties. The learned Counsel submits that the date of publication of the notification would confer the power for passing an order under the Act and not the date of notification which is almost three years prior to the date of publication of the notification.

5. The stand of Mr. N.S. Bhatia, Assistant Advocate General, Punjab, was that the date of notification is 17th of June, 1976, from which date it will be assumed that the Deputy Secretary, Rehabilitation had been appointed as the Chief Sales Commissioner and not from the date of publication of the notification.

6. After hearing the counsel for the parties, I am of the view that the appointment u/s 3 of the Act will take effect from the date of publication of the notification and not when the notification is prepared in the office of the Rehabilitation Department. Admittedly, the publication was made on 11th of May, 1979, in the Official Gazette whereas the impugned orders were passed in 1977, long before the publication of the notification and as such, the impugned orders are without jurisdiction. Consequently, I quash the orders setting aside the auction sales and direct that the Deputy Secretary, Rehabilitation, Punjab, Jullundur, to whom the powers of the Chief Sales Commissioner have been conferred, shall decide the matter in accordance with law. The parties, through their counsel, have been directed to appear before him on 27th of December, 1979.

7. The writ petitions are allowed accordingly with no order as to costs.

R.M.S. Petition allowed.