

(1999) 09 DEL CK 0060

In the Delhi High Court

Case No : Civil Writ Petition No. 703/76

Faqir Chand Vadhera

APPELLANT

Vs

Union of India and others

RESPONDENT

Date of Decision : 02-09-1999

Acts Referred:

Citation : (1999) 5 AD 645 : (2000) 1 RCR(Civil) 95

Hon'ble Judges : Chander Mohan Nayar, J

Bench : Single Bench

Advocate : Mr. P.N. Talwar, for the Appellant; Mr. H.S. Phoolka, for the Respondent

Judgement

C.M. Nayar, J.

C.M. No. 4800/87

1. This application has been filed under Order 22 Rule 3 C.P.C. read with Section 151 CPC to bring on record the legal heirs of deceased petitioner who expired in Delhi on December 30, 1983. In view of the averments made in the application the same is allowed. Let amended memo of parties be filed within one week. C.M. stands disposed of.

C.W.P. No. 703/1976

2. The present petition arises out of the claims in respect of properties left by the petitioner in Pakistan and which have been processed under the provisions of Displaced Persons (Claims) Act, 1950. The petitioner filed an amended writ petition wherein he has stated that the Order passed by Shri Parshotam Sarup, Deputy Chief Settlement Commissioner, New Delhi has not been implemented. The prayer clause in the amended writ petition reads as follows:

"It is, Therefore, prayed that in the light of submissions made above, this Hon'ble Court be pleased to call for the record of the case and be pleased to grant a writ in the nature of certiorari, mandamus, or such other writ, order or

direction as this Hon"ble Court may deem fit and proper and be pleased to direct the respondents to implement the orders of the respondent No. 3 dated 12th May, 1961 and 8th June, 1961 and reprocess the compensation application of the petitioner and to adjust the compensation payable to the petitioner towards the purchase price of property Nos. 394/157, 480/171, 373/187, 461/279 and 291/151 situated at village Kalu Sarai, Delhi and in consequence of the said adjustment, the properties in question may be transferred to the petitioner as provided for in the Displaced Persons (Compensation & Rehabilitation) Rules. The petitioner may also be awarded the cost of the present proceedings."

3. The Order which is sought to be enforced as passed on May 12, 1961 may also be reproduced as under:

"Before Shri Purshotam Sarup, Deputy Chief Settlement Commissioner, New Delhi.

Appeal No. 55/D/120/Appeal/CSC/61

Faqir Chand Wadhera son of Nand Lal

Prop., Tilak Hosiery,

2-B, Connaught Place,

New Delhi.Appellant 1. This application has been filed under Order 22 Rule 3 C.P.C. read with Section 151 CPC to bring on record the legal heirs of deceased petitioner who expired in Delhi on December 30, 1983. In view of the averments made in the application the same is allowed. Let amended memo of parties be filed within one week. C.M. stands disposed of.

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12th May, 1961 Sd/-(Parshotam Sarup) Deputy Chief Settlement Commissioner"

4. The reading of the above will indicate that the amount of claim on which compensation was paid was stated to be checked at Rs. 8,37,664/- by the Central Office. The Claims which are referred in paragraphs (c) & (d) were directed to be reprocessed on remand of the case in the light of the findings as recorded by the Deputy Chief Settlement Commissioner. As far as the plea raised in paragraph (c) is concerned the same is dealt with by the respondents as will be indicated from reading of the Communication dated February 23, 1977 from Department of Rehabilitation, Punjab Government to the Deputy Chief Settlement Commissioner, Government of India, Ministry of Supply & Rehabilitation, New Delhi. This letter reads as follows:

"Punjab Government"

Department of Rehabilitation

To,

The Deputy Chief Settlement Commissioner

Govt. of India,

Ministry of Supply & Rehabilitation,

(Department of Rehabilitation)

Settlement Wing,

Jaisalmer House, New Delhi.

No. 3582 SOA/dated 23.2.1977

Subject: Issue of no refund certificate as excess rent and cost in respect of property No. B-VIII/14, Ludhiana in favor of Sh. Faqir Chand.

Sir,

I am to refer to your office letter No. SC (III) ASO(P)II/TRC/D/

KM/92229/185960 dated 15.5.76 on the subject noted above, and to state that according to the basic register Form No. 2 maintained by your office and transferred to State Govt. in Administrative & Financial arrangement the rent of this property is assessed as Rs. 35/- P.M.

There is nothing on the record to show that rent of this property was reduced from Rs. 35/- P.M. to Rs. 20/- P.M. under the circumstances this office is unable to issue required no refund certificate in the absence of any documentary proof/ or any order passed by competent authority granting such a reduction in rent."

5. The learned counsel for the respondents has next referred to the averments in the counter affidavit filed by Shri D.C. Chahal, Settlement Officer in paragraph 19 which may also be stated as below:

"With reference to para 17. I say that earlier compensation case of the petitioner could not be reprocessed as matter of reduction of rent of Ludhiana property and Delhi property was under examination. Now since it has been confirmed that reduction of rent of Ludhiana property is not allowed and no refund certificate of the property No. B.2, Connaught Place, New Delhi has since been received, the necessary refund in the course of time will be allowed. About the cancellation of the sales of the properties bearing Khasra No. 394/157, 480/171, 373/187, 461/279, 291/151 situated at village Kalu Sarai, Delhi, I say that sale was cancelled as the petitioner failed to complete the transaction of the land in dispute."

6. In view of the above, the respondents are required to consider the pleas of the petitioner in compliance with the directions as contained in the Order dated May 12, 1961 as will also be evident from reading of the contents of paragraph 19 of the counter affidavit. In this view of the matter the respondents shall now consider and conclude the matter within a period of six months from today after service of due notice on the parties. This petition is disposed of in the above terms. There will be no order as to costs.