

(1971) 10 DEL CK 0019
In the Delhi High Court
Case No : Civil Writ No. 348-D of 1962

Gajan Mal

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 08-10-1971

Acts Referred:

Citation : AIR 1972 Delhi 214 : (1972) 8 DLT 107

Hon'ble Judges : Rajinder Sachar, J

Bench : Single Bench

Advocate : P.L. Sood, for the Appellant; Rustam M. Mehta, for the Respondent

Judgement

1. The question raised in this petition is whether the word "acre" in Rule 65 of Displaced Persons (Compensation and Rehabilitation) Rules 1955 (hereinafter to be called the rules) means "ordinary acres or "standard acres".

2. The petitioner is a displaced person from West Pakistan (Sind) who left non-urban immovable property both residential and agricultural land. In lieu of the agricultural land left in West Pakistan the petitioner was allotted 3.4 Standard Acres (which is more than 4 Ordinary Acres), in Madhya Pradesh. The petitioner's claim for 2 rural buildings was assessed at Rs. 12560/- and Rs.1200/- respectively. The petitioner put in his claim for being paid compensation on account of rural building but the same was refused by the Settlement Officer by his order dated 27th August, 1960. Thereafter, the petitioner filed an appeal and a revision but the same were also rejected by the Assistant Settlement Commissioner by his order dated 29th, November, 1960 and by Mr. Parashotam Sarup, Deputy Chief Settlement Commissioner dated 30th March, 1961. The respondents have taken the view that as the petitioner has been allotted more than 4 ordinary acres he is not entitled to receive compensation separately in respect of his verified claim for rural building, the assessed value of which is less than Rs. 20,000/- in terms of Rule 65 of the Displaced Persons (Compensation & Rehabilitation)Rules, 1955 (hereinafter to be referred to as 1955 Rules). The petitioner aggrieved by this impugned order

has filed the present writ petition under Articles 226 and 227 of the Constitution for a writ in the nature of certiorari or other appropriate writ, order direction for quashing the impugned order. Rule 65 of 1955 Rules read as follows :-

Rule 65 :

"Separate compensation for rural building not to be paid in certain cases: (1) Any person to whom (more than four acres) of agricultural land have been allotted shall not be entitled to receive compensation separately in respect of his verified claim for rural building the assessed value of which is less than Rs. 20,000/-. (2) Any person to whom (four acres or less) of agricultural land have been allotted, shall not be entitled to receive compensation separately in respect of his verified claim for any rural building the assessed value of which is less than Rs, 10,000/-".

The respondents have taken the view that the word "acre" in Rule 65 means ordinary acres and not standard acres. If so read, it is obvious that the petitioner who is allotted more than 4 ordinary acres (though only 3.4 standard acres) his case will be covered by Clause I of Rule 65 and as his verified claim for the rural building is less than Rs. 20,000/- he will not be entitled to receive any compensation. The learned counsel for the petitioner, however contends that sub-rule (2) of Rule 65 is applicable to the case of the petitioner because the word "acres" means standard acres and if so read he will be entitled to receive compensation in respect of verified claim for rural buildings the assessed value of one of which is Rs. 12560/-. I may mention here that the counsel for the petitioner conceded that for the purpose of Rule 65 each building has to be treated separately and that even if sub-rule 2 of Rule 65 was to be applicable to him he was not entitled to claim any compensation on account of rural building the assessed value of which has been assessed at Rs. 1200/- because it is less than Rupees 10,000/-. This concession was properly made in view of *Chanan Das Mukhi Vs. Union of India and Another*, . He Therefore, only claimed compensation in respect to that buildings, the assessed value of which has been verified at Rs. 12560/-.

3. The main question, Therefore is whether the word acres in Rule 65 means standard acres or ordinary acres. It is not disputed by the counsel for the parties that if the word acres in Rule 65 means standard acres then the case of the petitioner will be covered by sub-rule 2 of Rule 65 and he will be entitled to compensation in respect of the verified claim of a building which has been assessed at Rs. 12560/-; whereas if the word "acres" means ordinary acres the case will be covered by sub-rule (1) of Rule 65 in which case the order of the Chief Settlement Commissioner will be correct and the petitioner will not be entitled to any compensation in respect of his verified claim for rural buildings as the assessed value of those is less than Rs. 20,000/-.

4. Rule 2 (g) defines "standard acre" to mean an area of land whose average settlement yield is ten maunds of wheat or more but not exceeding eleven maunds, or other equivalent produce in value, and whose average maturity is 90

per cent, and above.

Rule 50 postulates that the Settlement Commissioner shall fix the value of any agricultural land which is intended for allotment in terms of standard acres.

Rule 52 provides the manner of allotment of land which may be allotted in the first instance to a person having verified claim for agricultural land. Such area shall be the area permissible under the scheme referred to in Rule 51 or thirty standard acres whichever is less.

Rule 53 provides that where a displaced person having a verified claim in respect of agricultural land has settled in an area other than an urban area, he may be paid one-third of the compensation due to him in case, subject to a maximum of Rs.1,000/-.

Provided that no such person holding a verified claim for more than thirty standard acres shall be paid any part of his compensation in cash.

Rule 54 provides for payment to certain person under disability a compensation in cash if such compensation converted in terms of standard acres is 18 standard acres or less.

Rule 56 provided that for the purpose of payment of compensation under Rules 51, 53, 55 each standard acre of land may be converted into cash at the rate of Rs.450/- per standard acre; in respect of first fifty standard acres and in respect of remaining standard acres at the rate of Rs.350/- per standard acre.

Rule 57 provides that a displaced person having a verified claim in respect of agricultural land who has settled in a rural area and to whom agricultural land has been allotted, may be allotted a house in addition to such land in accordance with scale prescribed.

Proviso to this rule however provides that if such a person holds a verified claim in respect of any rural building and the claim has been satisfied wholly or partially before the allotment of such land, the provisions of Rule 65 shall not be applicable in the case but he shall not be entitled to allotment of a house or a site and building grant in lieu thereof.

5. A reference to these various rules would show that the allotment in order to be patterned into a uniform one had necessarily to be made in terms of standard acres. It is well known that the yield of land not only in different States but even within the same State is not uniform. It was for this reason that the rule making authority first defined what standard acre was to be and then provided in Rule 50 for fixing the value of any agricultural land which is intended for allotment in terms of standard acres. This provision was absolutely necessary as otherwise two persons who may apparently be allotted same number of ordinary acres but in different areas, may be in reality get widely different kinds of lands and one land may be of wholly inferior kind, and give much lower yield as compared to the other. But when the allotments are made in terms of standard acre, each

allottee, will get the same real value because an allottee of 4 standard acres in any part of the area will be getting the land whose average settlement yield will be more or less the same. It may Therefore, happen that one allottee of 4 standard acres may be having land when converted into ordinary acres more than the ordinary acres of other allottee of 4 standard acres. But that would be of no consequence as by allotting standard acres their land would have been equated on the basis of the average settlement yield as given in the definition of standard acres and they would be getting equal value. It will be seen that Rule 5 talks of more than 4 acres or 4 acres or less of agricultural land having been allotted. It has already been provided in Rule 50 that the Settlement Commissioner shall fix the value of any agricultural land which is intended for allotment in terms of standard acre. Thus when Rule 65 talks of more than 4 acres or 4 acres or less agricultural land having been allotted it immediately attracts Rule 50 which means standard acre. The rule making authority obviously considered that as it had already provided in Rule 50 that allotments were to be made in terms of standard acre it was not necessary to use the word "standard acre" in Rule 65 when it was providing for the agricultural land having been allotted as by the very nature of things, the allotment will be in terms of standard acre. If it was not to be so interpreted then this rule is in danger of becoming redundant in those areas where the land is measured in terms of bighas, rather than ordinary in terms of bighas, rather than ordinary acres, for example in Delhi. Though when bighas are converted into standard acres, Rule 65 is workable, it breaks down if we are to read ordinary acres in the rule. Further proviso to Rule 57 excepts the applicability of Rule 65 to those persons who have settled in villages and makes a distinction from those who have not settled in rural area. Now Rule 57 has a measure of allotment in terms of standard acres and Therefore if the proviso is to be made workable it is essential that word acre in Rule 65 has to read to mean standard acre also. It was sought to be contended that Rule 97 uses both the words "acres" and "standard acres" and it Therefore must be held that the rule-making authority wherever it intended to use the word standard acres has done so. But as Rule 65 uses the word "acre" there is no justification for taking that rule to mean "standard acre". In my view there is no merit in this contention. It will be seen that Rule 97 when it talks of allotment of 4 acres or less of agricultural land is using the same language as in Rule 65 and for the same reasons that I have already indicated above, it was not necessary to mention the word "standard acre" because, by mandate of Rule 50, the allotment of the same had to be in term of standard acre. The word "standard acre" was mentioned in later portion of Rule 97 when the question was of paying rehabilitation grant and the cash equivalent to be fixed for that purpose. If the word standard acre was not used in this part of Rule 97 it would not have been possible to work out the conversion for the purpose of rehabilitation grant in terms of cash. It is true that the normal rule of interpretation is that the word should bear its ordinary grammatical meaning unless there is something in the context to the contrary. But it is equally well settled that where a word is used in an Act, which is capable of various shades of

meaning, the particular meaning to be attached must be arrived at by reference to the scheme of the Act or of the section in particular taken as a whole, vide *Hazara Singh Ganda Singh Vs. The State of Punjab and Others*, . It has also been held in *Tirath Singh Vs. Bachittar Singh and Others*, :

"Where the language of a statute, in its ordinary meaning and grammatical construction, leads to a manifest contradiction of the apparent of the enactment, or to some inconvenience or absurdity, hardship or injustice, presumably not intended, a construction any be put upon it which modifies the meaning of the words, and even the structure of the sentence."

If Therefore, we were not to read "acre" in Rule 65 to mean standard acre, Rule 65 will lead to contradiction and become ineffective. I may mention that though in no other case, the question raised as such before me has been decided, yet in a series of other cases where a reference to Rule 65 has been made, the courts have proceeded on the assumption that word acre in Rule 65 means standard acre. In this connection, reference may be made to a judgment in *Totaram Tekchan v. H. K. Choudhary*, Air 1960 Bom 528. I am of the view that the case of the petitioner is covered by sub-rule (2) of Rule 65, and he was Therefore, entitled to receive compensation in respect of his verified claim for rural building, the assessed value of which has been worked out as Rs. 12.560. As a result, I would, quash the order of Department Deputy Chief Settlement Commissioner dated 30th March, 1961 in which he held that the petitioner was not entitled to receive compensation. I, Therefore, issue mandamus to the respondent to consider the case of the petitioner in accordance with law and merit and keeping in view the observations made in this judgment. As a result, the writ petition is allowed but in the circumstances of the case, I will leave the parties to bear their own costs.

6. Petition allowed.