

(1989) 01 P&H CK 0060
In the Punjab And Haryana At Chandigarh
Case No : L.P.A. No. 526 of 1982

Harbhajan Singh	Vs	APPELLANT
Financial Commissioner (Taxation) Punjab and another		RESPONDENT

Date of Decision : 12-01-1989

Acts Referred:

Displaced Persons (Compensation and Rehabilitation) Act, 1954 — Section 22, 24, 25, 33, 5

Citation : AIR 1990 P&H 237 : (1990) 1 ILR (P&H) 315 : (1989) 95 PLR 358

Hon'ble Judges : Veeraswami Ramaswami, C.J;G.R. Majithia, J

Bench : Division Bench

Advocate : S.C. Sibal, for the Appellant; D.N. Rampal, for the Respondent

Judgement

This Judgment has been overruled by : The Financial Commissioner (Texation) Punjab and others Vs. Harbhajan Singh, (1996) 3 AD 669 : AIR 1996 SC 3287 : (1996) 4 JT 326 : (1996) 114 PLR 223 : (1996) 3 SCALE 561 : (1996) 9 SCC 281 : (1996) 3 SCR 812

G.R. Majithia, J.—This appeal under Cl. 10 of the Letters Patent is directed against the order of the learned single Judge whereby he dismissed the writ petition filed by the appellant and upheld the order of the Chief Settlement Commissioner setting aside the transfer of urban evacuee agricultural land measuring 7 kanals 15 marlas situated in the revenue estate of Karbara, Ludhiana, in favour of the writ petitioner.

2. The facts first :--

The appellant moved the Settlement Officer (U. L.) for transfer of land comprised in Khasra Nos. 45/2/2, 10 and 11 Min situate at Karbara, Ludhiana. The Settlement Officer (U.L.) determined the eligibility of the appellant for transfer of land and issued notice to him vide memo No. SOUL/F.9/ Karbara/LDH, Office of the Settlement Officer (U.L.) 678, Model Town, Jullundur, dated September 11, 1969, to appear before him for assessment of the sale price in terms of Rule 34-

D of the Displaced Persons (Compensation and Rehabilitation) Rules, 1955 (for short the Rules). The price was assessed at Rs. 10850/-. The papers were submitted to the Chief Settlement Commissioner on April 22, 1971, and the following order was passed:--

"Put up today. According to order dated 28-5-1970 of A. S.C. Shri Bahl, the case may be finalised. If full payment has been made, sale deed may be issued.

Sd/- J. S. Qaumi."

3. Full sale price was deposited. Thereafter, a reference was made by the Managing Officer, Headquarters Jalandhar, for review of the order vide which the eligibility for transfer of the land to the appellant was determined and subsequently, it was transferred. The Chief Settlement Commissioner on September 16, 1971 found that the order of Settlement Officer (U.L.) determining the eligibility of the appellant is improper and set aside the same. The appellant preferred a revision petition u/s 33 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954, (for short the Act) before the Central Government which was heard by the delegated authority. The revision petition was dismissed on February 25, 1971. The order of the Chief Settlement Commissioner dated September 16, 1971 and of the Central Government dated February 25, 1971, were challenged in the writ petition.

4. The principal ground of attack in the writ petition was that the Chief Settlement Commissioner had approved the transfer of the land in favour of the appellant vide order dated April 22, 1971. The same officer on September 16, 1971, set aside the earlier order of Settlement Officer (U.L.) determining the eligibility of the appellant for the transfer of the land. The order of the Settlement Officer (U. L.) and the fixation of the sale price pursuant thereto were approved by the Chief Settlement Commissioner on April 22, 1971, and as such the same officer could not review his earlier order. There was no power of review provided under the Act. The learned single Judge disposed of this contention with the following observation:

"The learned counsel for the petitioner has contended that Mr. J. S. Qaumi, had approved the transfer of the land in dispute in favour of the petitioner by his order dated 22-4-1971 (Annexure C) and he could not review this order by passing the impugned order dated 16-9-1971 (Annexure D). This contention is also without substance. The Assistant Settlement Commissioner did not scrutinise the order of the Settlement Officer (Urban) dated 11-9-1969 whereby the petitioner was found eligible for the transfer of the land in dispute. Mr. J. S. Qaumi, in his order dated 22-4-1971 (Annexure C) reproduced above, also did not examine the order dated 11-9-1969. This apart, Mr. J. S. Qaumi passed the order dated 22-4-1971 as Settlement Officer (Sales) and not as Authorised Chief Settlement Commissioner. Under these circumstances, the question of Mr. J. S. Qaumi, Authorised Chief Settlement Commissioner, reviewing his earlier order dated 22-4-1971 by the impugned order dated 16-9-1971 (Annexure D) did not

arise. The petitioner, therefore, cannot justifiably assail the order of the Authorised Chief Settlement Commissioner (Annexure D) on this ground."

5. The view taken by the learned single Judge that the order dated April 22, 1971 was not passed by Shri J. S. Qaumi as Authorised Chief Settlement Commissioner is incorrect. A perusal of the order dated April 22, 1971 reveals that it was passed by him as Chief Settlement Commissioner. The same order was set aside by him within five months of the passing of the earlier order dated April 22, 1971, as Chief Settlement Commissioner. If, what has been stated by the learned single Judge is correct, it is not explained, how within five months Mr. J. S. Qaumi had become Chief Settlement Commissioner. If on April 22, 1971, the order approving the sale was not passed by him as authorised Chief Settlement Commissioner, material should have been placed before this Court by the State to establish their plea that on April 22, 1971, Shri J. S. Qaumi, was not appointed as authorised Chief Settlement Commissioner. This is not the plea of the State. The State in its written statement has not taken this plea that on April 22, 1971 when Shri J. S. Qaumi approved the transfer of the land in favour of the appellant, he was acting as settlement Officer not as Chief Settlement Commissioner. To the contrary, the precise defence was that the land was not in cultivating possession of the appellant but was in possession of Jawahar Singh son of Gurmit Singh who was shown as unauthorised occupant in the Jamabandi and Khasra Girdwari for the year 1965-66. The said Jawahar Singh had already been allowed transfer of urban land measuring 11 Kanals 2 Marlas. His claim for the transfer of urban land stood satisfied and he was not entitled to the transfer of the disputed land and the appellant has wrongly got the entries of the Khasra Girdwaris corrected whereby his possession was shown by the revenue officers instead of Jawahar Singh.

This plea of the State taken in the written statement cannot be taken in these proceedings. This could only be taken into consideration when the eligibility for the transfer of the disputed land was determined. If the officer under the Act has wrongly determined the eligibility of the appellant for transfer of land or has acted contrary to rules, the remedy, if any, lay against the officer or by adopting proper legal proceeding to set aside and not by cancelling the transfer in favour of the appellant which stood legally approved. The observation of the learned Single Judge, reproduced above, is beyond the record and cannot be sustained. There is no power of review. u/s 24 of the Act, powers have been given to Chief Settlement Commissioner to exercise supervisory powers of revision in respect of the decisions of subordinate officers. The power of revision is a specific power conferred upon the Chief Settlement Commissioner by the legislature to be exercised for specific purpose on specific grounds. Section 25 of the Act deals with the review of an order of the Settlement Officer passed u/s 5 of the Act from which no appeal is allowed u/s 22 of the Act. A very limited power of review has been given to the Settlement Officer who can review the orders under circumscribed limits, no such powers can be exercised by any other officer. The Tribunals have no inherent right to review the order unless such power has been

specifically conferred. This matter is settled by this Court in a Full Bench Judgment in *Deep Chand v. Additional Director, Consolidation of Holdings, Punjab, Jullundur* (1964) 66 P LR 318 : (AIR 1964 P&H 249), wherein Dua, J., speaking for the Bench held thus:--

"To concede such a wide power of review would, in my opinion, introduce into judicial and quasi judicial decisions, disconcerting element of permanent uncertainty and unpredictability tending to give an impression of quasi judicial lawlessness, which I cannot persuade myself to uphold. If Courts do not possess such a wide and sweeping power, it is difficult to accede such a wide power in statutory judicial or quasi judicial tribunals."

6. In view of this, the order of the Chief Settlement Commissioner dated September 16, 1971 whereby he cancelled his own earlier order dated April 22, 1971, is without any legal sanction; the same is set aside and the order of the Central Government dated February 25, 1971, is also set aside. Resultantly, we accept this appeal, set aside the order of the learned single Judge dated December 24, 1981 and hold that the transfer of the land in favour of the appellant having been approved by the Chief Settlement Commissioner, could not be nullified by him subsequently.

7. Appeal allowed.