

(1969) 10 P&H CK 0023
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ No. 1655 of 1967

Jagir Singh and Others

APPELLANT

Vs

The Chief Settlement Commissioner, Punjab and Others

RESPONDENT

Date of Decision : 22-10-1969

Acts Referred:

Displaced Persons (Compensation and Rehabilitation) Act, 1954 — Section 24
Displaced Persons (Compensation and Rehabilitation) Rules, 1955 — Rule 90

Citation : AIR 1970 P&H 507

Hon'ble Judges : Shamsher Bahadur, J

Bench : Single Bench

Advocate : T.S. Mangat, for the Appellant; Harbans Lal, for the Respondent

Final Decision : Dismissed

Judgement

Shamsher Bahadur, J.—This is a writ petition of Jagir Singh, Chuhar Singh, Sit Singh, Santokh Singh and others under Article 226/227 of the Constitution for a declaration that the order passed by the Chief Settlement Commissioner on 1st July, 1967 cancelling the sale of the disputed land in their favour is void and inoperative.

2. The land in dispute measuring 14 standard acres $83/4$ units in village Chathewala, tehsil and district Bhatinda was allotted to Khem Chand, the 4th respondent in lieu of the land left by him in village Khambewala, tehsil and district Bahawalpur. A Sanad was granted to the 4th respondent on 30th November, 1962. The Managing Officer finding that the allotment was "bogus" made an order "of cancellation on 23rd July, 1964 (annexure A). In appeal preferred to the Assistant Settlement Commissioner, the order of the Managing Officer was set aside and the case was remanded for fresh decision. Before this functionary, the counsel for the 4th respondent produced certified copy of Jamabandi of the village Khambewala where he was the owner of the land. From these documents he was satisfied that the allotment was not bogus. Fresh entitlement of the 4th respondent was to be determined in pursuance of the

order passed on 28th November, 1964. It seems that the land was restored to the 4th respondent as is clear from the order of the Settlement Officer passed on 7th December, 1965. In this order it was mentioned-

"With the restoration of the land to the allottee the sale automatically becomes infructuous the sale has been finalised in favour of the auction purchasers who have also obtained certificates of sales The case is submitted to the learned Settlement Commissioner for cancellation of the sale and the certificates of sale issued to the auction purchasers."

3. After the allotment of land in favour of the 4th respondent had been cancelled, it was put for sale. The petitioners 1 to 3 purchased four out of six field numbers allotted to the 4th respondent for Rupees 12,100/- and the remaining two numbers were sold in favour of the 4th petitioner for Rs. 4025/-. Sale certificates were issued in favour of the petitioners.

4. The Chief Settlement Commissioner on receiving the reference found that the land allotted to the 4th respondent measuring 48 kanals 8 marlas and 26-K, 15-M. had been sold in open auction wrongly. The allotment which had been cancelled was restored and consequently the sale was declared to be void ab initio. In the words of the Settlement officer the sale had become infructuous and this position seems to have been accepted by the Chief Settlement Commissioner who passed orders u/s 24 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954. In this situation, the Chief Settlement Commissioner cancelled the sale certificates granted in favour of the petitioners and directed that the purchase price should be refunded to them.

5. The auction-purchasers in this petition challenge the order passed by the Chief Settlement Commissioner on 1st July, 1967 and it is argued by Mr. T. S. Mangat that the auction having been validly made in their favour and no case having been made out for setting it aside, the cancellation of the sale certificates had been wrongly made. The validity of the sale is not in question. The real point in dispute is whether the land could have been sold at all. The Managing Officer had cancelled the allotment in favour of the 4th respondent wrongly and on verification of the revenue entries, it was found that he was entitled to remain in possession of the land allotted to him. The powers of the Chief Settlement Commissioner u/s 24 of Displaced Persons (Compensation and Rehabilitation) Act are plenary and Sub-section (1) of the section reads as under;--

"The Chief Settlement Commissioner may at any time call for the record of any proceeding under this Act in which a Settlement Officer, an Assistant Settlement Officer, an Assistant Settlement Commissioner, an Additional Settlement Commissioner, a managing Officer or a managing corporation has passed an order for the purpose of satisfying himself as to the legality or propriety any such order and may pass such order in relation thereto as he thinks fit."

6. It having been found that the allotment in favour of the 4th respondent was still subsisting and the cancellation wrongly made, the sale was void ab initio.

That the Chief Settlement Commissioner can pass such orders u/s 24 is not open to any challenge. As observed by Narula, J. in Joginder Pal Vs. The State of Punjab and Others, Rule 90 of the Displaced Persons (Compensation and Rehabilitation) Rules is subject to the approval of the Settlement Commissioner and even after a sale certificate has been issued, the Chief Settlement Commissioner in exercise of powers u/s 24 of the Displaced Persons (Compensation and Rehabilitation) Act can set aside the sale in suitable cases. The land in suit having validly vested in the 4th respondent as a displaced person in satisfaction of his Verified claim, could not have been put to auction and, therefore, the auction sale in favour of the petitioners cannot be upheld. As the auctions were held through the negligence of the Central Government officials, the costs of this petition should be paid by the Union of India which has not chosen to be represented in this petition. This petition is, accordingly, dismissed and costs would be payable by the Union of India.