

(1969) 10 P&H CK 0018
In the Punjab And Haryana At Chandigarh
Case No : Civil Revision No. 650 of 1969

Jarnail Singh and Another

APPELLANT

Vs

Munshi Ram and Others

RESPONDENT

Date of Decision : 14-10-1969

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 151

Displaced Persons (Compensation and Rehabilitation) Act, 1954 — Section 24

Citation : AIR 1971 P&H 85 : (1970) 72 PLR 139

Hon'ble Judges : P.C. Pandit, J

Bench : Single Bench

Advocate : K.N. Tewari, for the Appellant; B.S. Chawla, for the Respondent

Judgement

1. This is a plaintiffs' revision petition against the order dated 14th May, 1969, passed by the learned Subordinate Judge, 1st Class, Patiala, staying the proceedings initiated by them before the Rehabilitation authorities till the decision of their suit.

2. Shrimati Bal Kaur sold the land in dispute to Munshi Ram and three others. Thereupon, her sons Jarnail Singh alias Angrez Singh and Balkar Singh brought a suit for possession of the said land on the ground that she was not the owner of the property which belonged to the plaintiffs.

3. In the written statement filed by the defendants, it was said that the Rehabilitation authorities had allotted the land in the name of Bal Kaur and also granted the sanad in her favour.

4. Coming to know of this fact, the plaintiffs, during the pendency of the suit, applied to the Chief Commissioner, Rehabilitation Department, presumably u/s 24 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954, for the cancellation of the sanad on the ground that their father Natha Singh owned land in West Pakistan where he died. After the partition of the country, when they migrated to India, the Rehabilitation authorities should have allotted land, in lieu

of the one left by them in Pakistan, in their favour and not in the name of their mother Bal Kaur.

5. Thereupon, the defendants made an application before the civil court under Sections 10 and 151 of the CPC for the stay of the proceedings pending between the parties before the Rehabilitation authorities.

6. This application was opposed by the plaintiffs mainly on two grounds; firstly that the civil court had no jurisdiction to stay such proceedings and secondly, that Section 36 of the Displaced Persons (Compensation and Rehabilitation) Act barred the jurisdiction of civil Courts to entertain any suit or proceedings in respect of any matter which the Rehabilitation authorities were empowered under the above-named Act to determine.

7. The trial Judge accepted the defendants' application and under the provisions of Section 151, Code of Civil Procedure, stayed the proceedings pending before the Rehabilitation authorities. Against this order, the present revision petition has been filed by the plaintiffs.

8. After hearing the counsel for the parties, I am of the view that this petition must be accepted. It was conceded before the Court below by the counsel for the defendants that Section 10, Code of Civil Procedure, did not apply to the present case. Learned counsel for the respondents could not point out any provision of law or decided case which could show that civil courts in their inherent powers u/s 151, Code of Civil Procedure, could stay proceedings before other authorities, who were specially empowered to decide those matters. It was, however, strenuously urged by the learned counsel that after the sanad had been granted in favour of Bal Kaur, the Rehabilitation authorities had no power whatsoever to disturb the allotment made in her favour and, therefore, the said authorities had no jurisdiction to entertain the application made in that behalf by the plaintiffs before them.

9. There is no merit in this contention. It was held by a Full Bench of this Court in *Smt. Balwant Kaur v. Chief Settlement Commr. (Lands)*, Jullundur, AIR 1964 Punj 33 (FB):

"The Chief Settlement Commissioner has in the exercise of his revision jurisdiction unrestricted power and can at any time reverse the order of the Managing Officer authorising the grant of proprietary rights even after the sanad had been granted to the claimant. The sanad or its grant being founded solely on the decision to transfer permanent ownership, that sanad must necessarily fall with the reversal of the decision on which it was based. If in any case the Managing Officer wrongly omitted to cancel the allotment in circumstances where he should have cancelled it, the Chief Settlement Commissioner would, in exercise of his power of revision, correct the error and similarly where the Managing Officer wrongly transferred proprietary rights in respect of any property, the Chief Settlement Commissioner could reverse the order and annul the transfer. Various officers have been given powers under the Act and the rules

framed thereunder for dealing with different kinds of properties. All those orders are liable to be revised by the Chief Settlement Commissioner u/s 24 of the Act. if there has been an infringement of any rule or law, the Chief Settlement Commissioner will set aside those orders. It will not be proper to give an exhaustive list of the supervisory or the revision powers of the Chief Settlement Commissioner. Everything will depend upon the facts and circumstances of each particular case."

10. That being so, the Chief Settlement Commissioner can, if a suitable case is made out, cancel the sanad granted in favour of Bal Kaur.

The result is that this petition succeeds and the impugned order is reversed. There will, however, be no order as to costs.

11. Petition allowed.