

(1961) 04 P&H CK 0004
In the Punjab And Haryana At Chandigarh
Case No : First Appeal No. 162 of 1954

Kangra Valley Slate Company Ltd.

APPELLANT

Vs

Kidar Nath Girhsar Lal and Others

RESPONDENT

Date of Decision : 25-04-1961

Acts Referred:

Pepsu Village Common Lands Regulation Act, 1954 — Section 3

Citation : AIR 1961 P&H 540

Hon'ble Judges : Mehar Singh, J;K.L. Gosain, J;A.N. Grover, J

Bench : Full Bench

Advocate : S.M. Sikri, General, D.N. Awasthy, V.C. Mahajan and Ram Rachhpal Mathur, for the Appellant; F.C. Mital, M.L. Sethi, K.C. Nayar, G.P. Jain and P.C. Jain, for the Respondent

Judgement

Mehar Singh, J.—The question referred to the Full Bench is:

"Whether the scope of Clause (a) of Sec. 3 of the Village Common Lands (Regulation) Act, 1953 (Punjab Act No. 1 of 1954), is limited to the rights, title and interests of proprietors as such, or does it also extend to the rights, title and interests in the land included in the Shamilar deh of the village, acquired from the proprietors as such, prior to and subsisting on the appointed date,"

In Section 2 (e) of the Act "appointed date" is defined to mean in the case of a village which is subject to the jurisdiction of a Panchayat at the commencement of the Act, the date of such commencement; and in other cases, the date on which 9 Panchayat with jurisdiction over the village is constituted. This is a case from village Ghanyara, Taluqa Rehlu, Tehsil and District Kangra. A Panchayat has in fact been constituted in the village.

2. The proprietors or zamindars of the village on February 28, 1867, granted a perpetual lease in favour of one Mr. Shaw to work slate quarries and to excavate slates in certain area of land, now in dispute, which admittedly has throughout been shamilat deh and described as such in the revenue records. The copy of an

extract, Exhibit P. 78, from the Dastur-ul-amal of the Settlement of 1868 shows that in the lease in favour of Mr. Shaw there is a condition that the said lessee shall be in possession and occupation of even the slate quarries which may be discovered after the date of the lease.

This lease was accepted by the Revenue Authorities at the time of that Settlement in an agreement with the proprietors, as it is clear from this copy of the Dastur-ul-amal. Ordinarily in view of Sections 41 and 42 of the Punjab Land Revenue Act, 1887, mineral rights and ownership of quarries and the like belong to the State Government subject to exceptional cases, one of them being an agreement with the State Government to the contrary.

It appears from this extract from the Dastur-ul-amal that the then Government left untouched the right of quarrying and extraction of slates from the shamilat area leased by the proprietors to Mr. Shaw, in other words, it left such rights intact with the proprietors, though other mineral rights were resumed as is clear from the same document.

The plaintiff is the successor of Mr. Shaw and in fact it appears that Mr. Shaw transferred his rights to the plaintiff even before the Settlement and then took over the management of the plaintiff. The defendants, 89 in number, belong to the particular village and they have been sued by the plaintiff for the issue of permanent injunction against them restraining them from interfering with all the exclusive rights of the plaintiff with regard to the excavating and selling of slates of the quarries and other places being worked or to be worked in the future in this particular village and for damages for what has already been taken out from the land by those defendants.

The suit was instituted on March 24, 1953. During the pendency of this suit Punjab Act No. 1 of 1954 came into force on January 9, 1954. Thereupon the defendants raised the plea that u/s 3 of the Act the land in dispute being shamilat deh if was vested in the Panchayat and the plaintiff has no longer any title to it to continue its claim against the defendants. This defence prevailed with the learned trial Judge and while the learned Judge decided the other issues also but he dismissed the suit of the plaintiff.

3. It is in the course of the hearing of the appeal against the decree dismissing the suit of the plaintiff that the question referred to above has arisen and the learned Judges have by the referring order of May 12, 1960, referred it to a larger Bench. This is how the question comes before us for consideration.

4. The name and the heading of the Act has already been given. The preamble says that it is "an Act to regulate the rights in shamilat deh and abadi deh". The expression "shamilat deh" is not defined anywhere in the Act. Section 3 so far as relevant for the present purpose, lays down:

"Section 3. Notwithstanding anything to the contrary contained in any other law for the time being in force, and notwithstanding any agreement, instrument,

custom or usage Or any decree or order of any Court or other authority, all rights title and interests whatever in the land--

(a) which is included in the shamilat deh of any village shall, on the appointed date, vest in a Panchayat having jurisdiction over the village"

Section 4 provides that all land vested in a Panchayat shall be utilised or disposed of by the Panchayat for the benefit of the inhabitants of the village concerned, in the prescribed manner, and in somewhat the same manner Section 6 provides for utilisation of the income from such land. Section 7 categorically provides that "no person shall be entitled to any compensation for any loss suffered or alleged to have been suffered as a result of the coming into force of this Act." The remaining three sections, the last of which gives the rule making power to the Government, are not substantially relevant for the present purpose. Reference at this stage may also be made to the Statement of Objects and Reasons appended to the bill which was published in the Punjab Government Gazette, Extraordinary, of April 6, 1953, and the statement runs:

"When the villages were originally founded it is believed that the shamilat was really meant for the use of all the inhabitants of the village. At present the position is that all the shamilat is the property of the proprietary body of the village and the rights of non-proprietary classes are in the shape of grants for certain purposes. Though the non-proprietary classes also presumably settled in villages with the founders thereof and have been rendering essential services to the proprietary body in matters relating to farm operations they do not enjoy equal rights in the shamilat lands and they are not the proprietors of the sites under their houses even in the abadis.

It seems that in the course of time conditions to the detriment of Harijans and other similar non-proprietary classes, have come into vogue. They feel their position insecure in so far as the enjoyment of essential rights in the shamilat lands is concerned. They should have proprietary rights in sites of their residential houses. Discontentment over this matter has been expressed by the members of these classes. Government consider that these conditions should no longer exist. It is with a view to giving these classes of residents in villages an opportunity to live with security and self-respect that the proposed legislation is being undertaken."

This gives the main substance and the scheme of the Act so far as relevant for the present purpose and also the Statement of Objects and Reasons when the Act was introduced as a bill in the Legislature.

5. The learned Advocate General, who has appeared for the plaintiff, has urged three arguments to support the claim of the plaintiff that the Act has no application to the case of the plaintiff. His arguments are--(1) that when the Statement of Objects and Reasons with the bill, the preamble of the Act, and the relevant terms and provisions of the Act are taken into consideration as a whole, the object of the Act was to take away and expropriate the rights, title and

interests of the proprietors in the village shamilat and to regulate the same in the shamilat as shamilat and the object and the intention of the Act has not been to take away and expropriate the rights, title and interests in the shamilat, or to regulate the same, in so far as the same vest in strangers though the strangers acquired the same from the proprietors; (2) that it is a sound canon of construction that an intention to take away property without compensation should not be imputed to a Legislature unless it be expressed in unequivocal terms (Halsbury, Volume 7, 3rd Edition, pages 196 and 197, paragraphs 417 (5) and 418 (2), *Western Counties Rly. Co. v. Windsor and Annapolis Rly. Co.* (1882) 7 AC 178 and *Commr. of Public Works (Cape Colony) v. Logan*, 1903 AC 355), and in a case like the present there is no provision for compensation for the rights of property of which the plaintiff is going to be deprived on the interpretation suggested by the defendants and accepted by the learned trial Judge; and (3) that at the most Punjab Act No. 1 of 1954 deals with rights in land and not with rights over land, there being distinction between rights in or rights over land (Entry No. 21 in List II in the Seventh Schedule to the Government of India Act, 1935, and Entry No. 18 in List II in Seventh Schedule to the Constitution and *Megh Raj v. Allah Rakhia* 74 Ind.App. 12 : AIR 1947 PC 72 and that an easement is a right over land and not right in land and further that u/s 4 of the Indian Easements Act, 1882 and Section 26 of the Indian Limitation Act, 1908, profit a prendre is an easement and the rights under the lease with the plaintiff are profit a prendre with the result that the rights under the lease with the plaintiff are rights over land and not rights in land so that Punjab Act No. 1 of 1954, which merely deals in Section 3 with rights, title and interests in land, does not apply to the case of rights, title and interests over land.

6. The arguments of the learned Advocate General may be taken in the reverse order. The last argument comes to this, that the rights, title and interests of the plaintiff under the lease are outside the scope of Punjab Act No. 1 of 1954, but then this question is not within the scope and ambit of the question referred to the Bench, because the first part of the question is whether Section 3 (a) of the Act is limited to the rights, title and interests of the proprietors as such and this does not bring in for consideration the question, of rights, title and interests" over the land, for it proceeds on the basis that this part refers to rights, title and interests of proprietors in land, and the second part of the question specifically refers to rights, title and interests in the land included in the shamilat deh. So that as this reference is confined to the very question before this Bench, the question whether or not Punjab Act No. 1 of 1934 deals with rights, title and interests over land does not arise. Whatever the soundness of this argument, it does not arise in relation to the question under reference, and if the plaintiff is advised it may be pursued before the Bench hearing the plaintiff's first appeal after the question under reference has been answered. This is sufficient to dispose of this argument.

7. On the second argument there is no doubt that one of the rules of

construction is that intention to take away the property of a subject without giving to him a legal right to compensation for the loss of it is not to be imputed to the Legislature unless that intention is expressed in unequivocal terms, but, apart from the clear and unambiguous language employed by the Legislature in Section 3 or the Act vesting all rights, title and interests in the land which is included in the shamilat deh in a Panchayat of village, without providing for any compensation for the loss of rights, title and interests by anybody in the same, there is specific provision in Section 7 of the Act negating any right to compensation for such loss in this behalf, for the section provides that "no person shall be entitled to any compensation for any loss suffered or alleged to have been suffered as a result of the coming into force of this Act."

The learned Advocate-General has contended that as, according to him, the provisions of the Act are confined to proprietors and non-proprietors, so this section must also be confined to such persons but that cannot be because the expression used in the section is not proprietors or non-proprietors or inhabitants defined in Section 2 (f) to be persons whether proprietors or non-proprietors ordinarily residing in the village but "no person" which expression in its ordinary and simple meaning cannot be confined in its scope. It covers all persons suffering or alleging to have suffered loss as a result of the coming into force of the Act. This argument on the express provision of the statute is entirely without basis.

8. In so far as the first argument is concerned the language employed by the Legislature in Section 3 (a) of the Act is clear and unambiguous beyond any question admitting no doubt in regard to what has been enacted in the provision. The section excludes first any law having provision to the contrary to those in the Act and there further excludes any agreement, instrument, custom or usage or any decree or order of any Court or other authority operating to affect rights, title and interests in the land, included in shamilat deh contrary to and inconsistent with the provisions of the Act.

After exclusion of these, the section then enacts that all rights, title and interests whatever in the land included in the shamilat deh vest in a Panchayat. The use of the words "all" and "whatever" excludes even the remotest suggestion of any rights, title and interests in shamilat having been excluded under any circumstances. The language is clear and all embracing, admitting no argument in support of exclusion of any rights, title or interest in shamilat den from the scope and ambit of the section.

The section refers not to rights, title and interests of any person or any class of persons but abstractly to all rights, title and interests whatever in the land included in the shamilat deh. What vests in the Panchayat are all rights, title and interests whatever in the land in the shamilat deh without any reference to any person or Persons in whom the same vested previously. On a simple, clear and unambiguous language of the section it reads only in this way that where there is land included in the shamilat deh, then all rights, title and interests whatever in

it vast in the Panchayat without exception, without reservation and without exclusion of the rights, title and interests of anybody.

The use of the expression "no person" in Section 7 of the Act further emphasises that the provisions of the Act are all embracing and anybody who has suffered or alleges to have suffered any loss as a result of the vesting of all rights, title and interests whatever in the land included in the shamilat deh is not entitled to any compensation. The lease in question falls within the scope of the words "agreement" and "instrument" as used in Section 3 of the Act.

It is obvious that any rights, title and interests under the lease in the plaintiff also vest in the Panchayat in so far as they are rights, title and interests in the land included in the shamilat deh of this particular village. On the plain language of the section the answer to the question referred can only be one that Section 3 (a) of the Act is not confined to rights, title and interests at proprietors in the shamilat deh but extends over all rights, title and interests whatever in such land in whomsoever vested before the coming into force of the Act and in the same are included rights, title and interests in the land included in the shamilat deh acquired from the proprietors as such even prior to the application of the Act in the particular village on the constitution of the Panchayat.

The learned Advocate-General has however, not being able to derive any assistance from the clear and unambiguous language of Section 3, attempted to fall back upon the Statement of Objects and Reasons when the Act was sponsored as a bill, the preamble, and the general tenor of the Act. In *The New Piecegoods Bazar Co. Ltd., Bombay Vs. The Commissioner of Income Tax, Bombay*, their Lordships observed that

"it is elementary that the primary duty of a Court is to give effect to the intention of the legislature as expressed in the words used by it and no outside consideration can be called in aid to find that intention,"

In regard to the Statement of Objects and Reasons in *Aswini Kumar Ghosh and Another Vs. Arabinda Bose and Another*, this is what has been observed:

"As regards the propriety of the reference to the Statement of Objects and Reasons, it must be remembered that it seeks only to explain what reasons induced the mover to introduce the Bill in the House and what objects he sought to achieve. But those objects and reasons may or may not correspond to the objective which the majority of members had in view when they passed it into law. The Bill may have undergone radical changes during its passage through the House or Houses, and there is no guarantee that the reasons which led to its introduction and the objects thereby sought to be achieved have remained the same throughout till the Bill emerges from the House as an Act of the Legislature, for they do not form part of the Bill and are not voted upon by the members. We, therefore, consider that the Statement of Objects and Reasons appended to the Bill should be ruled out as an aid to the construction of a statute."

In *M.K. Ranganathan and Another Vs. Government of Madras and Others*, and *Kavalappara Kottarathil Kochuni and Others Vs. The State of Madras and Others*, at pages 1086 and 1087, their Lordships have reiterated that the Statement of Objects and Reasons is not admissible as an aid to the construction of a statute. But in these last mentioned two cases the Statement of Objects and Reasons was referred to only for the limited purpose of ascertaining the conditions prevailing at the time which actuated the sponsors of the Bill to introduce the same and the purpose for which the measure was sponsored. So the Statement of Objects and Reasons not being admissible as an aid to the construction of a statute, the most that it can be used for is for the purpose of ascertaining the conditions prevailing at the time the Bill was introduced and the purpose for which it was sponsored. The conditions prevailing as referred to in the Statement of Objects and Reasons with the Bill merely refer to the disadvantageous position of the non-proprietors but that cannot lead to the inference that the measure was confined only to the rights, title and interests of the proprietors in the shamilat deh.

The purpose or object of the Act is to vest all rights, title and interests whatever in the land included in the shamilat deh in the Panchayat and that object is clear from the unambiguous language of Section 3 of the Act. So that the object of the Act is no assistance to the argument urged on behalf of the plaintiff that the Act should be read to apply only to proprietors and not to the rights, title and interests in the shamilat deh of all persons. So that the Statement of Objects and Reasons is not really helpful in the present case. Then in *The State of Uttar Pradesh Vs. C. Tobit and Others*, their Lordships say that

"it is well settled that the words of a statute, when there is doubt about their meaning, are to be understood in the sense in which they best harmonise with the subject of the enactment and the object which the Legislature has in view. Their meaning is found" not so much in a strictly grammatical or etymological propriety of language, nor even in its popular use, as in the subject or in the occasion on which they are used, and the object to be attained."

But this when there is doubt about the meaning of the words of a statute, but where the meaning is clear, straightforward and unambiguous there is no necessity to have resort to such aid in giving meaning to the words of a statute different than the apparent and the only meaning. This is as far as the Statement of Objects and Reasons with the Bill or the object of the statute are concerned. In the present case neither can be used as an aid to interpretation for the words of the statute are so clear that there is no room for interpretation.

A question of interpretation only arises when there is some ambiguity or uncertainty about the meaning of the words of a statute or the same are capable of more meanings than one, but a simple and straight case of clear meaning cannot by reference to rules of interpretation be turned into a case suitable for interpretation. It is well settled that a preamble can only be brought in as an aid to construction if the language of a statute is not clear and admits of plurality of meanings, but where it is clear and unambiguous preamble cannot be used to

extend or limit the meaning and scope of a statute. So the preamble in the present case cannot help to advance the case on behalf of the plaintiff. In the preamble the Act is referred to as an Act to regulate rights in Shamilat.

The learned Advocate-General refers to *Ward v. Folkestone Waterworks Co. Ltd.* (1890) 24 QBD 334 and *Attorney-General for Ontario v. Attorney-General for the Dominion* (1896) AC 348 and contends that "to regulate" cannot mean to extinguish. The two cases support this approach by the learned Advocate General. But in these two cases the words were used in the enacting parts of the statutes and not merely in a preamble.

Here what the learned Advocate General has attempted to do is to suggest first an interpretation of the preamble and in the light of such interpretation to limit the ambit and scope of the statute. This to my mind is never permissible when, as in the present case, the language of the statute is clearest imaginable. There is nothing in the tenor of the Act which supports the contention of the learned Advocate General that the Act is intended to apply only to the rights, title and interests in land included in the shamilat deh of the proprietors only.

There is no such limitation in Section 3 and Section 7 further supports the conclusion that the clear intention of the Legislature has been not so to limit the scope of the Act, Section 10 deals with the rule making power of the State Government but the enumerations in it are nothing more than direction for making of rules consistent with the provisions of the Act and the substantive provisions of the Act, after the land vests in the Panchayat, provide for utilisation of the land and its income for the benefit of the Inhabitants of the village in the manner prescribed. So that there is nothing in the Act which supports the contention of the learned Advocate General that its scope is confined only to the rights, title and interests of the proprietors in the shamilat deh.

9. What the argument of the learned Advocate General amounts to is to read in Section 3 between the words "interests" and "whatever" the words "of proprietors", otherwise the argument on the language of the section is without substance. The Legislature if it intended those words to be read in the section would have used them in the section. It has not been unaware of the word proprietor for it has used it in the definition of the word "inhabitant in Section 2(f) of the Act.

In *Sri Ram Ram Narain Medhi Vs. The State of Bombay*, what their Lordships observed on this aspect of the matter is:

"If the language of the enactment is clear and unambiguous it would not be legitimate for the Courts to add any words thereto and evolve therefrom some sense which may be said to carry out the supposed intention of the Legislature. The intention of the Legislature is to be gathered only from the words used by it and no such liberties can be taken by the Courts for effectuating a supposed intention of the Legislature."

In *British India General Insurance Co. Ltd. Vs. Captain Itbar Singh and Others*, their Lordships have reiterated this observing that unless a section as it stands is meaningless or of doubtful meaning Court cannot add words to it. In the present case Section 3 and even all the other provisions of the Act are set out in clearest words, meaningful and leaving no doubt about them. So that this argument of the learned Advocate General cannot be accepted.

10. Two other aspects of the matter may also be considered. The first is that statutes are so far as possible to be interpreted so as not to cause any Interference with the vested rights of the subject (Halsbury, Volume 7, Third Edition, page 197, paragraph 417 (5).) But obviously this is so when a statute admits of construction, but where a statute does not admit of construction because of the apparent clarity of the language used, this rule can have possibly no application.

In Punjab Act No. 1 of 1954 the Legislature has in Section 3 directly made a provision interfering with the vested rights of those who have such rights in the shamilat deh and in Section 7 of the Act it has debarred any right to claim compensation for the loss of such rights. Nothing could be clearer and this rule cannot and does not apply to this Act. Another aspect of the matter that has come for consideration is that when the whole proprietary body gets together and has transferred some rights in the shamilat deh before the application of the Act to its village, such as rights under a lease as in the present case or creation of a mortgage, then what is transferred to third persons or strangers ceases to be part of shamilat deh and as such is outside the scope of the Act.

This consideration obviously must meet the same fate as the third argument of the learned Advocate General for the question under reference proceeds on the basis that the rights of third persons or strangers are rights in land Included in shamilat deh. But apart from this, land Originally shamilat deh cannot possibly lose its character as such merely because an encumbrance is created upon it or some rights under a lease in regard to it have been transferred by the proprietors.

The land retains all the time the character of shamilat and it cannot be that part of the rights in the land as are transferred ceased to be shamilat for such rights are not separable from the land itself. They are not rights tangible apart from the land. If a conception like this was to prevail anomalous results would follow. In my opinion this is no consideration which supports the claim on the question under consideration by the plaintiff.

11. I would, therefore, answer the question referred to the Full Bench in this way that Section 3 (a) of Punjab Act No. 1 of 1954 is not limited to the rights, title and interests of proprietors as such, but extends to all persons having the same in the land included in the shamilat deh and further that Section 3 (a) extends to rights, title and interests in such land even when the same have been acquired from proprietors as such prior to the coming into force of the Act in deletion to

the particular village for Section 3 (a) of the Act applies in regard to the land irrespective of the persons having rights, title or interests in it so long as it is shamilat land.

K.L. Gosain, J.

12. I agree.

A.N. Grover, J.

13. I concur.