
(1966) 01 P&H CK 0021
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ No. 1385 of 1962

Karam Chand Thakar Dass

APPELLANT

Vs

Union of India (UOI) and Another

RESPONDENT

Date of Decision : 27-01-1966

Acts Referred:

Displaced Persons (Compensation and Rehabilitation) Act, 1954 — Section 20, 24, 24(1), 24(3)

Citation : AIR 1967 P&H 85 : (1966) 2 ILR (P&H) 725

Hon'ble Judges : R.S. Narula, J;I.D. Dua, J

Bench : Division Bench

Advocate : H.S. Wasu, B.S. Wasu and N.L. Dhingra, for the Appellant; J.N. Kaushal, General and M.R. Agnihotri, for the Respondent

Final Decision : Allowed

Judgement

1. This petition under Articles 226 and 227 of the Constitution has been pending since 1962 and has, for one reason or the other, not so far been disposed of. The facts briefly stated are that Karam Chand petitioner having been displaced from West Pakistan, where he is stated to have owned considerable area of agricultural land and other immovable property, was allotted on migration to India 119-3 1/4 standard acres of land in villages Abohar, Dwan Khera, Baluana Garden Colony etc. Major portion of the allotment was, however, in village Abohar Evacuee house No. 70 in Sukhere Basti, Abohar was allotted to him in due course vide allotment order dated 5-8-1951 The value of the house was at that time assessed by the Rehabilitation Authorities at Rs. 12,000. The value being less than Rs. 20,000, this house was declared as non-substantial house. In December. 1956. proprietary rights in respect of this house were also conferred on the petitioner According to the averments in the writ petition, after obtaining proprietary rights, the petitioner spent about Rs. 14,000 in improving this property. Sometime in 1957 this house was re-valued at Rs. 37,355 by a Committee consisting of Sub-Divisional Officer, Civil Sub Divisional Officer, P. W. D. and the Assistant Settlement Commissioner etc. This was done without any

notice to the petitioner. On new valuation, a cut of 20 per cent was applied by the department. The value was accordingly brought down to Rs. 29,884. After deducting Rs. 12,000, which was the original price, the petitioner was called upon by the Managing Officer, Jullundur to pay the difference amounting to Rs. 17,884. The petitioner objected to the notice, pleading, inter alia, that after the permanent transfer of the house, the authorities could neither raise the value nor cancel the proprietary rights. These objections were disallowed by an order dated 12-5-1962 made by the Chief Settlement Commissioner. It is against this order that the present writ petition has been preferred.

2. On behalf of the respondents, it has been pleaded that the value of the house was more than Rs. 20,000 and the Patwari, most probably with the connivance of the petitioner, had wrongly assessed it at Rs. 12,000. Proprietary rights were thus wrongly conferred on the petitioner. All the houses including that of the petitioner were re-valued by a Committee and this Committee assessed the value at Rs. 37,355. The house being substantially non-allotable, proprietary rights conferred on the petitioner were rightly set aside. It has been expressly pleaded that there was a general complaint that houses in Sukhere Basti had been under-valued and on enquiry, these complaints were found to be well-founded. All the houses were accordingly re-valued by a Committee consisting of responsible officers.

This suggested a fraud in the case. Reliance in the written statement has been placed on a decision by this Court in C. W. No. 496 of 1960 decided on 22-11-1960 (Punj) for the plea that the Chief Settlement Commissioner can cancel an allotment even when there is an implied finding of concealment of material facts.

3. Before me, the learned counsel for the petitioner has submitted that no notice was given to him for fixing new valuation and that this violates the recognised rule of natural justice. The petitioner is thus not bound by the re-valuation and, therefore, he cannot be called upon to pay any additional amount, leave alone the cancellation of his proprietary rights.

4. The respondents have submitted that on the record it is established that notice dated 13-7-1961 was personally served on the petitioner calling upon him to show cause why the allotment in his favour be not cancelled on account of fraud and in the alternative, why he should not be called upon to pay the difference between the value found and the amount paid after applying a cut of 20 per cent. The petitioner appeared before the Managing Officer, but on various pretexts, declined to adduce any evidence and finally was satisfied with merely addressing the arguments. The Managing Officer, after hearing the petitioner, forwarded his report to the Chief Settlement Commissioner who passed the impugned order. According to this submission, the petitioner had ample opportunity of showing cause against the fresh valuation. Though the petitioner's counsel submits that no opportunity was ever given in terms to adduce proof of the value of the property, on behalf of the respondents, Shri Sharma relies on

the notice and submits that the implication of fraud was based on the low valuation in the first instance and. therefore, the cause to be shown against cancellation of the allotment quite clearly means that the petitioner had to show cause about the value of the property at the time of the allotment. The petitioner desires this Court to be confined only to the written statement, whereas the respondents' learned counsel submits that the records were got summoned by the petitioner, and if the records show that a proper notice was given to the petitioner and he did not care to adduce evidence, then this writ petition must be disallowed.

Reference at the bar has been made to a recent Bench decision of the Court in Balwant Singh and Others Vs. Deputy Chief Settlement Commissioner and Others, and to two earlier decisions in Sodhi Harbakhsh Singh v. Central Government 1964 PLR 629: AIR 1964 P&H 137 and S. Karam Singh v. Chief Settlement Commissioner, C. W. No. 685 of 1960 decided on 25-4-1961 (Punjab) by Mehar Singh, J., a Letters Patent Appeal against which was dismissed. Those decisions do not completely cover the present case and the point raised is of considerable importance. Since this writ petition has been pending for the last three years, it is eminently a fit case which should be disposed of by a larger Bench within one month from today. Papers may accordingly be laid before my Lord the Chief Justice for passing suitable orders under Clause (xx) read with proviso (b), Chapter 3-B, High Court Rules and Orders, Vol. V.

ORDER OF THE DIVISION BENCH

5. R. S. NARULA J.: This petition of Karam Chand Petitioner under Article 226 of the Constitution is directed against the order passed by Shri J.M. Tandon, Chief Settlement Commissioner, Punjab, Jullundur on May, 12, 1962 accepting a reference of the Managing Officer dated March 20, 1962 and setting aside the permanent rights previously acquired by the petitioner with respect to house No. 70 in Sukhera Basil, Abohar which had been allotted to him as an appendage to the agricultural land given to him in that village in lieu of similar land left by him in West Pakistan and against the order of the Central Government dated July 30, 1962 dismissing the petitioner's application under section 88 of the Displaced Persons (Compensation and Rehabilitation) Act, 44 of 1954, hereinafter called the Act.

6. The petitioner is a displaced person from West Pakistan. After the partition of the country under the Indian Independence Act the petitioner was allotted 119-3 1/4 Standard acres of land in village Abohar, Dewan Khera, Baluaua Garden Colony, etc., the major portion of this allotment being in village Abohar itself. Evacuee house No. 70 in Sukhera, Basti, Abohar, hereinafter referred to as the house in dispute, was duly allotted to the petitioner by order dated August 5, 1951. It is not disputed that the petitioner would have been entitled to transfer of the proprietary rights in the house in dispute free of charge if the value of the house was less than Rs. 20,000/- nor is it disputed that according to the valuation of the house originally fixed by the authorities it was worth less than

Rs. 20,000/- and it was on that basis that it had been allotted to the petitioner. The proprietary rights in respect of the house in dispute were, therefore, conferred on the petitioner. The petitioner claims to have spent about Rs. 14,000/- on the renovation, additions and improvements effected by him in the house in dispute wherein he claims to have installed an electric pump and to have got modern flooring laid and additional rooms built. The extent of the improvements and additions made by the petitioner are not admitted by the respondents. Without any notice to the petitioner and without either informing him or associating him with the revaluation proceedings the house in dispute as well as other houses in the village in question were got revalued. The revaluation of the house in dispute by a Sub Committee appointed for the purpose came to Rs. 37,355/- as in 1959. According to certain Government instructions an overall reduction of 20 per cent was made in the said figure so as to arrive at the supposed value of the house in 1947. Thus the original value of Rs. 12,000/- for the house in dispute was raised to Rs. 29,884 ex parte.

The petitioner came to know of those proceedings only when he received a notice on 28th July, 1961 (notice received by one Mohan Lal on behalf of the petitioner) to appear before the Managing Officer on 29-7-1961. It is not disputed that the petitioner was not told as to the basis on which the value had been raised nor was he shown the revised valuation report. He was asked whether he was prepared to pay up the difference between Rs. 12,000 and Rs. 29,884. The order passed by the Managing Officer on July 29, 1961 on the original file shows that the petitioner asked for 20 days time to show that the revised valuation was wholly incorrect. He wanted time to obtain a copy of the plan and of the revaluation report. He was, however, granted adjournment till 8-8-1961 only. On the adjourned date the petitioner informed the Managing Officer that he had not been able to obtain the requisite copies till then and that, therefore, further time may be allowed to him to obtain those copies. This request of the petitioner was declined in the orders of the Managing Officer dated 8-8-1961. As the petitioner had in the meantime filed written objections the case was ordered to be fixed for arguments and for any further written objections which the petitioner might file after obtaining the copies on August 28, 1961. A few short adjournments were thereafter granted to accommodate the Advocate for the petitioner. No evidence of the petitioner in support of his objections was recorded. No copy of the revaluation report was provided to him.

Arguments of the petitioner were heard in support of his written objections on 22-9-1961 and judgment of the Managing Officer was ordered to be reserved on that day. In the written objections filed by the petitioner it was stated that the house in dispute was originally mostly kacha, that the petitioner was granted a proprietary sanad in respect of thereof on 8-12-1956. that in view of the marriage of the petitioner's son fixed in July, 1957 the petitioner had made extensive improvements, changes and additions in the house, that he had installed a hand-pump and other fittings and had got even the compound walls plastered and that all this had cost him about Rupees 14,000/-. In addition to

the above-said objections the petitioner had also filed a detailed reply dated 25-8-1961 to the show-cause notice, covering 9 typed pages giving details of the costs incurred by him on the improvements, etc , and also showing that the revised value of the house in dispute was grossly exaggerated. In his objections the petitioner insisted that the value of the house in 1947 was not more than Rs. 12.000/- and that the notice under reply should, therefore, be discharged.

Not only were the revaluation proceedings not shown and disclosed to the petitioner but the same have been kept back even from the Court. He asked the learned Advocate General if we could see the two respective valuation reports in order to find out the reason of the drastic difference. We were told that the revaluation record is not available though the other record has been made available to the Court. We, however, find on the original record produced before us (at page 23 thereof) a statement showing proposed deductions to be made from the cost of the house in dispute as assessed. This statement appears to have been prepared by the Sub Divisional Officer, Abohar Provincial Sub Division on 11 5-1961. According to this statement extra area worth Rupees 1869 had been included in the revaluation report, the occupier had spent Rs. 2291/- on additional constructions and Rs. 2748/ on special repairs and Rs. 1400/- on installing water-pump and electricity. Some amount was included in the said statement on account of annual repairs for the last 10 years. According to this statement the value already fixed by the Revaluation Committee should have been reduced by Rs. 12,300/-. It has not been explained why this was not done. If the revised value of Rs. 29, 884 is reduced by Rs. 12,300 as suggested in the above-said statement, the net value of the house in dispute on the relevant date would be less than Rs. 20,000/- and the petitioner would indisputably be entitled to continue to be the owner of the house without paying anything.

7. The learned counsel for the petitioner states that the judgment, which was reserved by the Managing Officer on 22-9-1961, was never pronounced. It appears that in the meantime some other similar cases were sent up to the Chief Settlement Commissioner for setting aside the allotments in those cases and that the Chief Settlement Commissioner had directed in those cases that the allottees should be given an option to pay up the difference of the price and the case should be submitted to the Chief Settlement Commissioner for cancellation of the allotment only if the allottee failed or refused to pay up the difference. This appears to have been treated by the Managing Officer as a general direction for all cases. The direction appears to have been interpreted by the Managing Officer to be that no inquiry was necessary into the objections against the revaluation. Therefore, the Managing Officer submitted a report dated 8-1-1962 to the Chief Settlement Commissioner. It reads as follows:

"In other cases of Shri Kundan Lal, Kharaiti Lal, etc. sent to C.S.C. for setting aside P/rights of the houses allotted to them of the value of more than Rs. 20,000/- he directed that before sending the same to him the choice of the allottee for not paying the difference of valuation between the one fixed by the

Valuation Committee be obtained and if the allottee refused to pay the difference then the case referred to him. As such fresh notice for the purpose be issued and allottee directed to appear on 22-1-62."

8. From the above order it appears that the direction of the Chief Settlement Commissioner referred to therein was taken by the Managing Officer to exonerate him from the responsibility of deciding the objections of the petitioner on merits. He appears to have thought that all that was necessary was to give the allottee a chance to make up the difference and that on his failure to do so the Managing Officer had to send up the case to the Chief Settlement Commissioner for cancellation of the permanent allotment. Accordingly notice dated January 16, 1962 was issued to the petitioner to attend before the Managing Officer on January 22, 1962 and to state as to whether he was willing to pay the difference of Rupees 17,884 between the value fixed by the Valuation Committee and that originally entered in the sikni register. It was added to the above said notice that failure of attendance of the petitioner would be considered as his willingness for cancellation of the transfer of the house in question. Thereafter the petitioner obtained various adjournments on different grounds. But the fact remains that he did not offer to pay up the difference between the figures of the two valuations. It was in the above circumstances that the Managing Officer (Rehabilitation) Jullundur made a report dated March 20, 1962 to the Chief Settlement Commissioner in this case.

In the report it is stated that Shri B.S. Grewal, Financial Commissioner (Rehabilitation) cum Chief Settlement Commissioner. Punjab, on a complaint about the irregular allotment of houses in Basti Sukhera and Jammu (Abohar) visited Abohar, heard the parties and passed order dated May 10, 1958 in which he observed that the valuation of the houses in the villages in question had been done in an improper manner under influence of interested parties without obtaining technical advice. Mr. Grewal had also observed that some of the allottees had obtained more than one house. He had proceeded to cancel the permanent rights of those persons and had directed that allotment should be made in accordance with the relevant rules after a proper valuation of the properties with the assistance of the Executive Engineer, P.W.D. (B and R). The report proceeded to state that some of the allottees went up in revision u/s 33 of the Act to the Central Government against the aforesaid order of Shri B.S. Grewal and that the Government of India found force in the revision petition and set aside the wholesale orders of Shri Grewal and directed that the cases may be examined individually. Thereupon, continued the Managing Officer in his report, the value of the house in dispute had been reassessed by the Valuation Committee

Without referring to the objections filed by the petitioner against the revaluation, the Managing Officer then proceeded to state, that a notice was issued to Karam Chand, petitioner to pay up the difference but the petitioner had failed to make the payment. The Managing Officer further reported that evidence of actual fraud

or misrepresentation by an allottee was not necessary and that the department had already allowed a rebate of 20 per cent over the present value in order to obtain the value of the property at the time of its allotment. The Managing Officer then added that the additions and alterations had not been substantiated and in any case the same had been carried out without the permission of the department and therefore no deduction was allowed on that account from the assessment made by the Committee. The Managing Officer ultimately recommended in his note that since the petitioner had not offered to pay the difference there was no alternative but to submit the case to the Chief Settlement Commissioner for cancellation of permanent rights on the solitary ground that the allottee had not agreed to pay the difference between the value assessed by the Committee and the one originally entered in the register

9. When the case reached the Chief Settlement Commissioner the counsel for the petitioner urged before him that the price fixed by the Committee had not been correctly assessed. This contention of the counsel for the petitioner was disposed of by Shri J. M. Tandon, Chief Settlement Commissioner, Jullundur in his order dated 12-5-1962 in the following words:

"I am afraid this contention cannot be accepted because it had already been decided that the prices assessed originally were wrong and they were got reassessed by a valuation committee".

10. The reference to the previous decision is to some ex parte decision arrived at behind the back of the petitioner.

11. The order shows that it was then argued on behalf of the petitioner that the decision of the valuation committee on its merits was wrong and that the Chief Settlement Commissioner did not allow this contention to be developed and repelled it by the following observations:

"I am afraid this contention has also no force because the Committee which has assessed the value consisted of officials, technical and non-official members and I see no justification to hold that the price assessed by the Committee is wrong."

12. The Chief Settlement Commissioner held in his said orders (copy annexure B to the writ petition) that the price of the house had been wrongly assessed at Rs. 12,000/- and that thereafter a committee for the purpose of valuation of the houses in Abohar was set up who had reassessed the gross value at Rupees 37,355 and net value (after allowing 20 per cent deduction) at Rs. 29,884/-. The impugned order then proceeds as follows:

"Since the departmental instructions provide that in such cases unless the allottee pays the difference in price, he cannot retain the house allotted, I accept this reference and set aside the permanent rights acquired by Shri Karam Chand with respect to house No. 70 allotted in his name in village Basti Sukhera (Abohar)."

13. It is significant that no allegation or finding of any fraud or misrepresentation

of any kind against the petitioner was made in the order of the Chief Settlement Commissioner.

14. Against the abovesaid order of the Chief Settlement Commissioner the petitioner went up in revision to the Central Government u/s 33 of the Act. Copy of the revision petition is annexure C to the writ petition. In the said revision petition it was first stated that the house in question having gone out of the compensation pool in 1956 by its permanent transfer to the petitioner the Rehabilitation Authorities had no jurisdiction to set aside the permanent transfer unless the petitioner was proved to have practised some fraud or misrepresentation on the department had that no fraud or misrepresentation had in this case been either alleged or proved against the petitioner. The second ground of attack in the revision petition was that the revaluation had been done behind the back of the petitioner without giving him any opportunity of being heard and that this was contrary to the principles of natural justice. The third main contention in the revision petition was that the Committee had evaluated the property as it stood on the date of revaluation by ignoring the cost incurred by the petitioner on improvements, additions and alterations. The last main argument in the revision petition was that allowing a rebate of 20 per cent over the 1959 price in order to reach the 1947-48 value of the property was fallacious as the value of land alone in the area had gone up from Rs. 2 per square yard in 1948 to Rs. 9 per square yard in 1959. Various faults were found with the merits of the revaluation report. It was significantly mentioned that the non-official members of the Committee for revaluation had protested and given a dissenting note against the revaluation of the site. This revision petition of Karam Chand was dismissed by the Central Government without hearing the petitioner and the dismissal was communicated to the petitioner by the Under Secretary to the Government of India by his letter dated 30th July. 1962 (annexure D).

15. When this writ petition for quashing the abovesaid revaluation proceedings and orders of the Chief Settlement Commissioner and the Central Government came up for hearing before my learned brother, Dua, J. on October 22. 1965, it was observed by my learned brother that this is eminently a fit case which should be disposed of by a larger Bench and, therefore, directed that the papers of this case may be laid before the learned Chief Justice for passing suitable orders under Clause (XX) read with proviso (b) of Rule 1 Chapter 3-B of the High Court Rules and Orders, Volume V. That is how this case has come up before us in Division Bench.

16. In the written statement of the Chief Settlement Commissioner dated nil supported by an affidavit of Shri J.M. Tandon dated nil it is stated that the original value of Rs. 12,000/- had been "wrongly assessed by the Patwari most probably with the connivance of the petitioner. In the rejoinder to that written statement filed by the petitioner it was stated that this house along with all other houses in the village in question had not been valued by the Patwari at all but had originally been valued by the Naib Tehsildar at the spot with the help of

powerful and independent non-official body consisting of Shri Chandi Ram Verma, M.L.A., Rai Sahib L. Kundan Lal Ahuja, President Municipal Committee, Abohar (now M.L.C.), Bedi Gurbakhash Singh and Shri Bashesar Nath and that the house in question had been correctly valued at Rs. 12.000/-. In the said rejoinder the petitioner further emphasised the fact that he (the petitioner) had no say at all in the original valuation. In reply to the rejoinder a counter-affidavit of Shri J.M. Tandon, Chief Settlement Commissioner dated nil has been filed in this Court. In connection with the above matter it has been stated on behalf of the Rehabilitation authorities in the counter-affidavit that "it is immaterial whether the value of the house was assessed by the Patwari or the Naib Tehsildar" but in any case it is.

"a fact that the field staff was influenced by the members of the so-called powerful and independent non-official body consisting of Shri Chandi Ram Verma, M.L.A., Rai Sahib Kundan Lal Ahuja. President, Municipal Committee, Abohar, Bedi Gurbakhash Singh and Shri Bishesar Nath.

17. It is, therefore, apparent from the abovementioned pleadings of the parties in this case before us that even according to the return made to the rule issued in this case there is no allegation of the petitioner having been associated in the fixation of the original price or having ever made any misrepresentation or committed any fraud in connection with the value of the house in dispute being fixed at Rupees 12,000/-. On the other hand it is difficult to congratulate the Rehabilitation Department and its concerned officers on the shifting stand which they have taken in their above-mentioned pleadings in this behalf.

18. Regarding the grant of any opportunity to the petitioner at the time of revaluing the house it is pleaded in para 11 (iii) of the written statement of the Rehabilitation authorities as below:

"There was thus no question of any notice to the petitioner who had been represented in the Committee by the non-official members."

19. In reply to this allegation it has been sworn by the petitioner in his rejoinder that the non-official members never agreed to the valuation of the house which is now being sought to be enforced and that they had in fact put their own dissenting note in writing, a fact which could be verified from the record if the proceedings of the valuation committee were brought before the Court. As stated above the revaluation proceedings have not been produced before us.

20. Nor can it really be argued by the respondents that the non-official members associated on the valuation committee could be treated as representatives of the petitioner who was not even aware at that stage of the revaluation proceedings.

21. Regarding the point of time in respect of which the property has been revalued it is clearly admitted in the written statement of the Chief Settlement Commissioner that the value of the house in dispute has been assessed as it stood in the year 1959 but that 20 per cent depreciation has been allowed on

that value.

22. Adverting to the claim of the petitioner for reducing the present value of the property by the amount spent by the petitioner on the house in dispute in making additions, alterations and improvements therein the Chief Settlement Commissioner has stated as follows :

"The investment to the extent of Rupees 14,000/- alleged to have been made by the petitioner on the improvement of the house is denied."

23. It is significant that the department's estimate of the amount spent by the petitioner on the improvements, etc., in question has not been disclosed to the Court in the written statement though it appears to be Rs. 12,300 according to the departmental record referred to above. The above-quoted answer of the respondent to the relevant allegation of the petitioner can also imply that the amount spent by the petitioner on the improvements etc. was less than Rs. 14,000/-.

24. In fairness to the learned Advocate General it must be recorded that at the very outset of the hearing he fairly and frankly conceded that in view of the fact that the revaluation had been done behind the back of the petitioner and without any notice to him and that even subsequently an opportunity had been denied to the petitioner to have the same checked up in his presence or to rebut the material on which the revised value had been fixed, the petitioner was entitled to succeed and to have the impugned order set aside because of our judgment in *Balwant Singh and Others Vs. Deputy Chief Settlement Commissioner and Others*, . In that case we held as follows:

"We however, want to make it clear that we may not be understood to hold that in every case of fixation of value under Rule 34-B of the Compensation Rules it is necessary for the statutory authority to call the occupant at the initial stage in the very first instance before fixing the value. It would be open to the authority concerned to call the occupant if he has already been found to be eligible for allotment under Rule 34-C or to fix the value without calling him and to intimate the same to the lessee. If, however, the lessee feels aggrieved by the ex parte fixation of value and questions or impugns the same before the same authority in appropriate proceedings or in an appeal against such an order, it would not be open to the authority concerned to refuse to the aggrieved party an adequate opportunity to show cause against such ex parte fixation of value. The nature of the opportunity to be given will depend upon the circumstances of each case. But the principles of natural justice would not be satisfied if the aggrieved party is not allowed to rebut the evidence on which the ex parte value has been fixed and/or is not allowed to lead his own evidence to show what the correct or the proper value should be. The aggrieved party should certainly be entitled to know the evidence on which the ex parte value has been fixed in order to be able to rebut it."

25. The instant case is somewhat stronger than *Balwant Singh and Others Vs.*

Deputy Chief Settlement Commissioner and Others, . In this case the house in dispute had been permanently transferred to the petitioner. An attempt to revalue it at a higher price was really in the nature of attempting to deprive the petitioner of the property which had otherwise vested in him absolutely. That such proceeding should have been initialed and concluded without notice to the petitioner is not consistent with the principles of natural justice. In any case the refusal of the Chief Settlement Commissioner to allow the petitioner to show that the revaluation was wrong is directly opposed to the law laid down in Balwant Singh and Others Vs. Deputy Chief Settlement Commissioner and Others, . It was on this account that Shri J.N. Kaushal, the learned Advocate General, conceded that in their case this writ petition had to be allowed and the impugned order set aside. In view of the fact that this case has been referred to a Division Bench to decide the larger and more important general questions arising in this context we decided to hear the learned counsel for the parties at length on the scope of the powers of the Rehabilitation authorities in this respect though it was possible to dispose of this case on the short ground mentioned above.

26. Before dealing with the said larger question it may also be noticed that it was not disputed before us that the relevant date on which the value of the property has to be taken into account for the purposes of transfer of the urban agricultural house is the date of the original allotment of the house and not the date on which its value is fixed. That being so, it should be a question of fact in each case to be decided in a proper manner and it appears to be wholly unsatisfactory way of dealing with things to allow a general rebate of 20 per cent over the value fixed at any time of any property in any circumstances so as to arrive at its market value in 1947-48 or on the date of its allotment to the particular person which date is bound to vary from case to case.

27. It is also noteworthy that in the matter of revaluation of property the cost incurred by a person in improving it or adding to it must be excluded even though the improvements or additions are made without the sanction of the Rehabilitation authorities or the municipal authorities. An allottee is not to be punished for making improvements particularly after permanent rights of ownership in the property have passed to him. Whether he did it with or without the permission of the authorities is wholly irrelevant for the purpose of finding out the actual value of the property on the date of its allotment prior to those additions or alterations.

28. One more point raised by the petitioner has to be dealt with before coming to the general question. It was argued by Mr. Wasu, the learned counsel for the petitioner that even if the property could be revalued in the circumstances of this case and even if its value determined on a subsequent date was found to be higher than the original value there was no question of the allottee being charged with or being asked to pay the difference between the original value and the revised value upto a maximum sum of Rs. 20,000. The argument is that the allottee would be entitled to get the house free if its market value on the relevant

date was less than Rs. 20,000/-. According to the petitioner, therefore, if the value of the house is found to be Rs. 29,884/- and even if it is found that the petitioner can be compelled to pay this amount on the pain of having his allotment cancelled, he cannot be asked to pay more than Rs. 9,884/-, i.e., the amount in excess of Rs. 20,000/- upto which he is entitled to acquire the house free of cost as a mere appendage to the relevant allotment of agricultural land. We find great force in this contention.

29. The general question on account of which this reference to a larger Bench appears to have been necessitated and which is certainly a very important question likely to arise in a large number of cases is about the circumstances in which the Rehabilitation authorities can claim from a transferee of property from the compensation pool some amount on the allegation that the original valuation of the property fixed by their officers was erroneous or to proceed to cancel the transfer on the solitary ground that the allottee is not prepared to pay what the Rehabilitation authorities now think to be the correct value of such property in respect of which permanent rights have once been transferred to the allottee on the basis of the original value.

30. Before endeavouring to answer the above question we must notice the relevant law which has already been settled in respect of such analogous matters. Section 19 of the Act gives the Managing Officer power to vary or cancel leases or allotments of any property acquired under the Act notwithstanding anything contained in any contract or any other law for the time being in force but subject to any rules that may be made under the Act. Rule 102 authorises the Managing Officer to cancel an allotment or terminate a lease of any property in the compensation pool entrusted to him on various grounds set out in that rule. This case does not admittedly fall in Clauses (a) to (c) of Rule 102. Clause (d) of that rule authorises the cancellation of an allotment or termination of a lease "for any other sufficient reason to be recorded in writing". The proviso to that rule prohibits any action being taken thereunder without giving a reasonable opportunity of being heard to the allottee or lessee likely to be affected by the proposed order.

31. In *Bara Singh v. Joginder Singh*. 1959 61 PLR 127: AIR 1969 P&H 370. it was held that the Chief Settlement Commissioner can at any time reverse an order of the Managing Officer authorising the grant of proprietary rights even after a 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 is based. It was not necessary in that case to set out the circumstances in which such power could be exercised by the Chief Settlement Commissioner. It is conceded in this case that on the record before us no allegation of fraud or misrepresentation against the petitioner is made out. Admittedly the case does not, therefore, fall within the purview of Section 24(2) of the Act. It has, however, been authoritatively held by a Full Bench of this Court in *Balwant Kaur v. Chief Settlement Commr. (Lands)*,

Jullundur 1963 65 PLR 1141: AIR 1964 P&H 33 (Per Mahajan and Pandit JJ.) that the powers given to the Chief Settlement Commissioner under Sub-section (2) of Section 24 are not any way restrictive of his powers under Sub-section (1) but are on the other hand merely illustrative. Whereas Sub-section (2) applies to cases of fraud, false representation or concealment of material facts no such restriction is laid down by Sub-section (1) of Section 24 under which any orders of the authorities named therein can be set aside or varied by the Chief Settlement Commissioner on the ground that the same are either not legal or not proper. There was some difference of opinion about the correctness of the Division Bench judgment of this Court in Bara Singh Vs. Joginder Singh and Others, but the same was set at rest by the above-said Full Bench judgment in Balwant Kaur's case 1963 65 PLR 1141: AIR 1964 P&H 33.

The dictum of the Full Bench has since been approved by their Lordships of the Supreme Court in Shri Mithoo Shahani and Others Vs. Union of India (UOI) and Others, . In that case it was held that the view of this Court about the title acquired under an order of allotment falling with the setting aside of the said order as expressed by the Full Bench in Balwant Kaur's case 1963 66 PLR 1141: AIR 1964 P&H 33 was correct. In this connection their Lordships of the Supreme Court held as below:

"It is manifest that sanad can be lawfully issued only on the basis of a valid order of the allotment. If an order of allotment which is the basis upon which a grant is made is set aside it would follow, and the conclusion is inescapable that the grant cannot survive, because in order that that grant should be valid it should have been effected by a competent officer under a valid order. If the validity of that order is effectively put an end to it would be impossible to maintain unless there were any express provision in the Act or in the rules that the grant still stands"

32. Regarding the meaning and scope of the expression "at any time" as contained in Section 24(1) of the Act it was observed in the Full Bench judgment of this Court in Balwant Kaur's case 1963 65 PLR 1141: AIR 1964 P&H 33 as follows.

"Section 24 of the Act says that the Chief Settlement Commissioner "may at any time call for the record of any proceeding under this Act, * * * * and may pass such order in relation thereto as he thinks fit". What is the meaning of the words "at any time" occurring in this section, that is to say, within what time limit can the Chief Settlement Commissioner exercise his revisional powers either "suo motu" or on the application of an aggrieved party? Rule 104. It is difficult to lay down any hard and fast rule in this connection. It will depend on the facts of each particular case as to whether there are grounds for entertaining the revision after the period of limitation prescribed in the rules. However, the Chief Settlement Commissioner "suo motu" can interfere with the orders of his subordinates and no limitation is prescribed for that either in the rules or in the statute, "but it is understood that he would interfere within a reasonable time depending on the circumstances of each case". It is assumed that he would

exercise his discretion in a reasonable manner and not arbitrarily. (Underlining (herein " ") by me)

33. On the other hand the learned Advocate General has invited our attention to the judgment of the Supreme Court in *Purshottam Lal Dhawan Vs. Dewan Chaman Lal and Another*, , where it was laid down in connection with the use of the same expression (at any time) in Section 27 of the Administration of Evacuee Property Act, 30 of 1950 that the power of the Custodian-General is uncontrolled by any time factor, but only by the scope of the Act within which he functions.

34. In *Chahat Khan v. State of Punjab*. C. W. No. 679 of 1962 (Punj) (FB) a Full Bench of five Judges of this Court (Khanna, J. dissenting) held in connection with the import and scope of the expression "at any time" used in Section 36 of the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act. 1948 that absolute indefiniteness in point of time for exercising the power under the section could not reasonably have been intended by the Legislature to be available to the authorities under the Act. My learned brother, Dua, J., who was a party to the majority judgment in *Chahat Khan's* case, C. W. No. 679 of 1962 (Punj) (FB), observed in this connection as follows:

"I was otherwise firmly of the view that the expression "at any time" as used in Section 36 called for some limitation in point of time, the widest amplitude of the expression notwithstanding. I expressed myself in unequivocal terms that "to concede to the Settlement Officer the power of varying or revoking the scheme "at any time" without any limitation seems to me to be more objectionable and such a construction may perhaps expose this provision to a more serious constitutional challenge, for it would clearly expose the title to the holding to a permanent uncertainty, a result not in accord with the fundamentals of our Republican jurisprudence and, therefore, not readily agreeable to our instincts". I added that the expression "at any time" used in Section 86 call for a construction in the light of the constitutional guarantees and not on bald literalness. Nothing has been urged at the bar on the present occasion which has persuaded me to change my approach to the problem and the alignment of my judicial vision in the search for the legislative intent "

35. The perspective in which an expression of this type should be interpreted has been best put by my learned brother in *Chahat Khans* case, C. W. No 579 of 1962 (Punj) (FB) in the following, words:

"Aim, object and scope of the statute read in its entirety and in the background of our constitutional set-up, must always be kept in view in construing the words requiring interpretation, because indisputably they get colour and content from these factors. The constitutional policy may, in my opinion, appropriately provide a very valuable aid in fixing legitimate boundaries of statutory meaning. To quote from Maxwell on Interpretation of Statutes (Eleventh Edition, pp. 16-17). It is an elementary rule that a thing which is within the letter of a statute will, generally, be construed as not within the statute unless it be also within the real intention

of the legislature, and the words, if sufficiently flexible, must be construed in the sense which, if less correct grammatically, is more in harmony with that intention". The use of the expression "at any time" in Section 36 of the Act, therefore, cannot be considered to be conclusive on its bald literal-ness".

36. Coming to the scope, objects and scheme of the Displaced Persons (Compensation and Rehabilitation) Act it is obvious that the purpose of that legislation was to provide for the payment of compensation, etc., to the displaced persons and for matters connected therewith. According to the scheme of the Act acquired evacuee property ill the compensation pool has to be disposed of either by transfer to certain class of displaced persons or by sale. A transferee of such property from the Central Government becomes its absolute owner. It could not possibly be intended by the Parliament that the title of such an owner of immovable property should be constantly in Jeopardy for an indefinite time particularly when no fault of any kind is ascribed to him in obtaining the property in question. It is no doubt true that power is vested in the Chief Settlement Commissioner by Section 24(1) of the Act to set aside or vary any order passed by any of the authorities named in that subsection at any time if the Chief Settlement Commissioner is not satisfied about the legality or propriety of such order. What has been changed in the instant case is the value of the house in dispute which had been fixed by the first committee. It is neither shown nor stated by anyone that the original value had been fixed by any of the authorities named in Section 24(1) of the Act. The order of the Managing Officer transferring the house in dispute to the petitioner was a mere consequential order based on the original valuation. Admittedly no illegality or impropriety has been found in the order of the Managing Officer transferring the property to the petitioner. It is the valuation on which the order was based which has been interfered with. That could not be done u/s 24(1). Nor has the valuation been changed by the Chief Settlement Commissioner. No other authority can interfere under the above-said provision of law.

Coming back, however, to the question of the meaning of the expression "at any time" in Section 24(1) of the Act I am firmly of the view that the phrase does not authorise the Chief Settlement Commissioner to interfere with a completed deal after any length of time implying absolute indefiniteness. "At any time" in this section certainly means:

- (i) at any time so long as the property respect of which the order is sought to be passed continues to be in the compensation pool ;
- (ii) at any time thereafter if the person sought to be affected by the revised order is found to have been a party to the original order which would not have been the same if the party in question had not acted in a certain way; and
- (iii) at any time in other suitable cases provided it is within a reasonable time which would depend on the peculiar facts and circumstances of each case.

37. I am further of the view that if the Chief Settlement Commissioner exercises

his jurisdiction u/s 24(1) of the Act after a long time or after undue delay he must deal in his order with the question of delay so as to make it obvious that the delay is not undue and could not be avoided in the circumstances of the case and also to show that it is necessary in the interest of justice that interference should be made in the previous order even after lapse of so much time. Any order u/s 24(1) of the Act passed after undue delay or after the lapse of several years of the passing of the property (in respect of which the order is passed) out of the compensation pool may possibly be liable to be struck down on the ground that it is opposed to the rule of law to the effect that a quasi-judicial orders should not be lightly interfered with after they have once achieved finality merely because the Chief Settlement Commissioner thinks that the original order was not as good as it should have been. The fact that according to the opinion of a particular officer the value of certain property was fixed too low or too high before the property was transferred would not normally be a matter to be Interfered with long after the absolute transfer of the property u/s 24(1) of the Act because mere wrong valuation not based on any fraud or misrepresentation of the party benefited by the error is not intended to amount to illegality or impropriety within the meaning ascribed to those terms in that section.

38. On the facts of this case the interference with the original valuation after 9 or 10 years does not appear to be justified and appears to be outside the scope of Section 24(1) of the Act.

39. I have, therefore, no hesitation in accepting this writ petition and in setting aside the impugned orders of the Chief Settlement Commissioner and of the Central Government setting aside the transfer of the house in dispute to the petitioner or claiming any amount whatever from him in respect of the house in dispute on the basis of the revised valuation. As the petitioner has been harassed and vexed by the respondents without any fault of his and against the spirit and intention of the relevant provisions of the Act after the absolute transfer of the title of the property in question to him, the respondent shall pay his costs of this case.

Inder Dev Dua, J.

40. I agree