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(1970) 05 P&H CK 0033

In the Punjab And Haryana At Chandigarh

Case No : Letters Patent Appeal No. 278 of 1966

Lila Krishan and other — APPELLANT

Vs

Union of India and others — RESPONDENT

Date of Decision : 13-05-1970

Acts Referred:
Displaced Persons (Compensation and Rehabilitation) Act, 1954 — Section 33

Citation : (1970) 05 P&H CK 0033

Hon'ble Judges : Mehar Singh, J;Balraj Tuli, J

Bench : Division Bench

Advocate : H.S.Wasu with Mr. B.S. Wasu, for the Appellant; D.N. Aggarwal with Mr. B.N. Aggarwal for the Respondents Nos. 3 and 4., for the Respondent

Final Decision : Dismissed

Judgement

B.R. Tuli, J.—The Appellants purchased urban agricultural land comprised in Khasra Nos. 2840 to 2848 situate within the municipal limits of Hissar which was sold by public auction by the Rehabilitation authorities under the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (hereinafter called the Act), in the year 1958. The land was then in unauthorised occupation of Budh Ram and Chandgi Ram, Respondents 3 and 4. On November 12, 1958, the Assistant Settlement Commissioner, wrote to the Deputy Commissioner,Hissar, to arrange for delivery of possesion of the land to the Appellants. Respondent 3 thereupon brought a suit for a declaration that he was in possesion as tenant and thus not liable to eviction and for a permanent injunction restraining the Defendants from dispossessing him from the land. This suit was dismissed on October 30, 1959. He then filed C. W. 1490 of 1960 in this Court which was dismissed in limine on September 19, 1960. Before Respondents 3 and 4 could be dispossessed the Rehabilitation authorities issued the sale certificate to the Appellant, on August 22, 1962, and on February 5, 1963, the Settlement Officer directed the Tahsildar, Hissar. to deliver possession to the Appellants. Respondent 3 again objected to it and filed an appeal which was dismissed on July 25, 1963,

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by the Settlement Commissioner, Respondents 3 and 4 then went up in revision which was accepted by the Deputy Chief Settlement Commissioner exercising the delegated powers of the Chief Settlement Commissioner on December 19, 1963. by this order, the Deputy Chief Settlement Commissioner directed that the proceedings for the dispossession of Respondents 3 and 4 should be dropped. The basis of the order was that the sale certificate having been issued to the Appellants on August 22, 1962, the property had gone out of the compensation pool and thus the Rehabilitation authorities were not left with any jurisdiction to deal with that property or to dispossess the said Respondents who were in possession of the same. The Appellants moved the Central Government u/s 33 of the Act but without any success. The Appellants then filed a petition under Articles 226 and 227 of the Constitution in this Court for a writ of mandamus requiring the Rehabilitation authorities to deliver possession of the land which they had Purchased from them in a public auction in 1958. This petition was dismissed by a learned Single Judge on March 23, 1966, and the present appeal under Clause 10 of the Letters Patent is directed against that order.

The learned Counsel for the Appellants has relied on Section 19(2) of the Act, which runs as under:

19-(2) Where any person,-

(a) has ceased to be entitled to the possession of any evacuee property by reason of any action taken under Sub-section (1), or

(b) is otherwise in unauthorised possession of any evacuee property or any other immovable property forming part of the compensation pool, he shall, after he has been given a reasonable opportunity of showing cause against his eviction from such property surrender possession of the property on demand being made in this behalf by the Managing Officer or Managing Corporation or by any other person duly authorised by such officer or corporation.

The language of this Sub-section clearly shows that it relates to evacuee property or any other immovable property forming part of the compensation Pool. If the property has ceased to be evacuee property, or part of the compensation pool on the date the action for disposession is taken, the authorities under the Act will have no jurisdiction to do so. The property ceases to be evacuee property and goes out of the compensation pool when it is sold and the title is conferred on the purchaser by the issue of a sale certificate. The Rehabilitation authorities under the Act cease to have any jurisdiction in respect of that property thereafter. The Appellants have become owners of the land purchased by them in 1958 by the issue of sale certificate in their favour and, therefore, can exercise all rights of ownership like any other owner with regard to that land. They can, follow their legal remedies for dispossessing Respondents 3 and 4 but they have no right to insist that the Rehabilitation authorities under the Act should deliver the possession of the land to them merely because it was sold by them in a public auction. There is thus no substance in this appeal which

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is dismissed with costs. Counsel''s fee Rs. 100.00.

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