
(1972) 03 SC CK 0059

In the Supreme Court Of India

Case No : Civil Appeal No. 329 of 1967

Mehar Singh Nanak Chand

APPELLANT

Vs

Shri Naunihal Thakar Das and Others

RESPONDENT

Date of Decision : 22-03-1972

Acts Referred:

Constitution of India, 1950 — Article 133

Evacuee Interest (Separation) Act, 1951 — Section 14, 15, 16, 17

Citation : AIR 1972 SC 2533 : (1973) 3 SCC 731 : (1972) 4 UJ 821

Hon'ble Judges : G. K. Mitter, J; A. N. Grover, J

Bench : Division Bench

Advocate : S.N. Anand and K. Mehta, for the Respondent

Final Decision : Dismissed

Judgement

1. This is an appeal by Special Leave from the judgment of the Punjab High Court.

2. The facts may be shortly stated. The properties, bearing municipal No. 747-B-VH, situated in Ludhiana, originally belonged to certain Muslim evacuees. These properties were mortgaged in favour of M/s. Brij Lal Manmohan Lal. These properties were, therefore, composite properties and had to be dealt with under the provisions of the Evacuee Interest (Separation) Act, 1951 (herein called the Act).

3. M/s. Naunihal Thakar Dass, respondent No. 1 before us, purchased the mortgagee-rights from M/s. Brij Lal Manmohan Lal relating to the aforesaid properties. The claim was filed by the said respondent before the Competent Officer, Ludhiana under the provisions of the Act for acquiring these properties. After following the requisite procedure, the Competent Officer directed that the properties be transferred to the respondent on payment of a certain amount. The appellant-firm filed an appeal to the Appellate Officer appointed under the Act. The Appellate Officer took the view that the appeal or review can be filed by a

person who was a party to the proceedings before the Competent Officer. As the appellant before him was not a party to the proceedings before the Competent Officer, it had no locus standi to file the appeal. It was held by him that as the Competent Officer had power to review his own order the appellant should approach that Officer in the matter.

4. Thereafter, the appellants preferred an application before the Competent Officer under Rule 11-B (E) of the rules framed under the Act read with Section 17 asking for review and for the transfer of the disputed properties in favour of the appellant; The Competent Officer framed a number of issues because the application was opposed by the respondent. He decided that he was competent to review the order of his predecessor and held that the order made by the Competent Officer on 25-8-58 was illegal. But he found that on the merits the appellant was not entitled to an order in its favour. He directed the property to be sold in the open market. Both sides were dissatisfied with the order of the Competent Officer and appeals were taken to the Appellate Officer who confirmed the Order of the Competent Officer and dismissed the appeals. The respondent thereafter moved a writ petition under Article 226 of the Constitution in the High Court challenging the order of the Competent Officer dated July 8, 1960 and of the Appellate Officer dated September 14, 1960.

5. A learned Single Judge of the High Court who heard the writ petition dismissed it. He was of the view that as no grave injustice had resulted to the writ petitioner by the Competent Officer's refusal to sell the mortgaged property to it at the assessed price,; the writ petition could not succeed even if the Competent Officer while reviewing the previous order exceeded the limits laid down by law.

6. An appeal was filed by the respondent under Clause 10 of the Letters Patent of the High Court. The Division Bench which heard the appeal referred to the well-settled rule that no Tribunal has a power to review its earlier order unless the same is specifically conferred on it by the Statute. The Writ Petition was, therefore, allowed and the impugned Orders were quashed.

7. Before us, Mr. Gyan Singh Vohra, learned Counsel for the appellant has sought to raise a number of points, some of which may be mentioned. Firstly, it is contended that the Order made by the Competent Officer dated July 8, 1960 was not by way of review. Secondly, the Order of the Appellate Officer should be construed as one of remand to the Competent Officer. Thirdly, the respondent had no right whatsoever to take the property in dispute because of the various reasons which need not be mentioned.

8. It is not possible for us to allow Mr. Vohra to agitate all those contentions. These points were never raised either before Division Bench of the High Court, nor have they been taken in the Petition for Special Leave to this Court, and are not to be found even in the petition under Article 133 of the Constitution for obtaining leave of the High Court to appeal to this Court. They are altogether new points. The only point on which the controversy entered before the Division

Bench related to the powers of the Competent Officer to review the order of his predecessor. On that point, Mr. Vohra has not been able to show us anything from the provisions of the Act which empowers the Competent Officer to review his Orders.

9. Chapter III in the Act deals with appeal, revision and powers and procedure of Competent Officer and Appellate Officer. Section 14 relates to appeals and Section 15 to the power of revision of the Appellate Officer. Section 16 is in these terms "clerical or arithmetical mistakes in orders passed by a Competent Officer or an Appellate Officer or errors arising therein from any accidental slip or omission, may, at any time, be corrected by the competent officer or the appellate officer either of his own motion or on an application received in this behalf from any of the parties." From Section 16 itself it is clear that no power of review of the nature which was exercised by the Competent Officer in the present case was conferred on him. According to Mr. Vohra, since the appellant was not a party to the previous orders made by the Competent Officer, there was no question of review, but before the High Court the only question on which decision was invited was confined to the jurisdiction of the Competent Officer to review his predecessor's order. In other words, it was accepted that it was the power of review which was exercised by the Competent Officer when he made the order on July 8, 1960. Since Mr. Vohra has not been able to show any authority or any provision in the Act which would have conferred any power on the Competent Officer to review the order of his predecessor, the appeal must fail and it is dismissed. In the circumstances, we make no order as to costs.