

(1965) 03 P&H CK 0011
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ No. 1309 of 1962

Messrs Sain Ditta Ram Basant Lal

APPELLANT

Vs

Chief Settlement Commissioner and Others

RESPONDENT

Date of Decision : 15-03-1965

Acts Referred:

Citation : (1965) 03 P&H CK 0011

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

Bench : Single Bench

Advocate : A.C. Hoshiarpuri, for the Appellant; J.N. Kaushal, Advocate General, with Mr. M.R. Agnihotri, for the Respondent

Final Decision : Dismissed

Judgement

P.C. Pandit, J.—This is a petition under Article 226 of the Constitution filed by Messrs. Sainditta Ram Basant Lal challenging the legality of the order dated 15th February 1962 passed by the Chief Settlement Commissioner, respondent No. 1.

2. The dispute in the present case relates to Industrial Establishment No. 10 situate in Hoshiarpur. This property was allotted as a saw mill to the petitioners, who are displaced persons from West Pakistan and are non-claimants. It appears that the machinery of this Establishment was not in a working order and it required heavy repairs. Consequently, the petitioners, with the sanction of the Deputy Custodian, installed a Soda Water and Biscuit Factory. The transfer of this property was refused to the petitioners by the District Rent and Managing Officer on 19th October, 1959. This order was later on confirmed by the Assistant Settlement Commissioner, respondent No. 2 on 25th May, 1960. The ground for refusal was that the industrial establishment was no longer a saw mill and the premises were being used as a Hotel, Soda Water Factory and a small grocery shop. These orders were, however, reversed by respondent No. 1 on 22nd December, 1960. In the concluding portion of his order, respondent No. 1 said—

If the transfer of the property has been wrongfully refused, the initial installment

has to be accepted from the petitioner, if he is a non-claimant even if it is made after 31st October, 1959. In this case there would be no bar to receive the initial installment from the petitioner even after 31st October, 1959.

In consequence of this order, the petitioner deposited the initial installment on 31st January, 1961. The case of the petitioners is that the rent should be charged from them up to 30th September, 1955 and not till the date of the payment of the initial installment. Respondent No. 1 by the impugned order has, however, held that if the allottee wanted to have the concession of the rent remission, according to the Press Note dated 4th September, 1959 the deposit of the initial installment had to be made before 31st October, 1959. Since the petitioners failed to do so, this concession could not be given to them and they were required to pay up-to-date rent. This led to the filing of the present writ petition.

3. According to the return filed by the respondents, this industrial establishment had been allotted to the petitioners on 8th October, 1952. On 30th May, 1939 they applied to the District Rent and Managing Officer for transferring this property as the same was allot table. This request was rejected by the said Officer, but in revision respondent No. 1 on 22nd December, 1960 set aside that order. The initial installment was deposited by the petitioners on 31st January, 1961. On 16th April, 1959 a Press Note had been issued by the Ministry of Rehabilitation by which the non-claimant displaced persons were also allowed to purchase the properties by depositing the first installment towards the cost of the property before 31-7-1959. Further, according to that Press Note, those persons who made the deposit before this date were also entitled to remission of rent with effect from 1-10-1955. By a subsequent Press Note dated 4-9-1959, the date of deposit was extended to 31-10-1959. The petitioners, who had been transferred the property in dispute vide the order dated 22-12-1960, passed by respondent No. 1, also applied to the District Rent and Managing Office for remission of rent with effect from 1-10-1955. As they had not deposited the first installment by 31-10-1959, their request was rejected. On 31-10-1960 another Press Note was issued by the Government giving another opportunity to non-claimant displaced persons to purchase the acquired properties, but the condition precedent was that such purchasers would pay the first installment along with the initial deposit and up-to-date rent. According to the respondents, the petitioners' case fell under this Press Note and they had been charged rent up to 31-1-1961 when the initial deposit was made by them.

4. The only contention raised by the learned counsel for the petitioners was that the impugned order was illegal, because the petitioners had applied for the transfer of this property on 30-5-1959, that is, before 31-7-1959, or at any rate before the extended date of 31-10-1959 and consequently, they should have been granted the remission of rent with effect from 1-10-1955 as mentioned in the Press Notes. Whatever lay in their power to purchase this property, they had done and they should not be made to suffer for the errors made by the District

Rent and Managing Officer and respondent No. 2, who refused to transfer the property to them. This mistake was set right by respondent No. 1 on 22-12-1960 and they then deposited the initial installment on 31-1-1961.

5. After hearing the learned counsel for the parties, I am of the opinion that there is no merit in this writ petition. It is undisputed that before the petitioners can invoke the jurisdiction of this Court under Article 226 of the Constitution, they must establish that some legal right of theirs had been infringed and that had resulted in manifest injustice to them. In the present case, the basis of the petitioners' claim rests on the Press Notes alone, by which certain concessions had been offered to non-claimant displaced persons. It has been ruled by this Court that the Press Notes issued by the Central Government have no legal force and are mere executive instructions and any action taken or intended to be taken on the basis of the same is of no legal effect. It cannot, therefore, be said that if the officers below refused to give effect to these Press Notes, any right of the petitioners was infringed. The only Rule that concerns the displaced persons, who are non-claimants, is Rule 26 of the Displaced Persons (Compensation and Rehabilitation) Rules, 1955, the relevant portion of which reads thus-

R. 26. Where an acquired evacuee property which is an allotable property is in the sole occupation of a displaced person who does not hold a verified claim, the property may be transferred to him-

(i) in the case of an industrial concern if he pays at once not less than 25% of the value thereof and agrees to pay the balance in installments spread over a period not exceeding 2 1/2 years from the date of the initial payment;

Provided that in the case of acquired evacuee property including an industrial concern which is an allot table property, he may, at his option pay at once 20 per cent of the value of the property in cash and agree to pay the balance with interest in seven equated annual installments.

While dealing with this Rule, a Bench of this Court to which I was also a party, has in *Sodhi Harbakhsh Singh v. Central Government* (1962) 64 P. L. R 629, held thus-

Rule 26 does not cast any obligation on the Authorities to transfer allot table property to a non-claimant in whose occupation such property may happen to be, and merely vests a power in the Authority concerned to make the transfer or not according to the circumstances.

Thus, it will be seen that even under this Rule, the petitioners could not claim as a matter of right that the property in dispute be transferred to them. So far as the press Notes are concerned, no right can be founded on them. It is significant to mention that the Government was anxious to dispose of these evacuee properties and was giving various concessions to facilitate the purchase of the same by non-claimant displaced persons in occupation thereof. Since 1956 they

were issuing Press Notes in this behalf. The petitioners kept silent all this time and it was only on 30th May, 1959 that they applied for the transfer of the property in dispute as stated by the respondents. They are, therefore, themselves responsible for the delay and thus losing the concessions offered by the Government.

6. The result is that this petition fails and is dismissed, but with no order as to costs.