
(1990) 07 P&H CK 0020

In the Punjab And Haryana At Chandigarh

Case No : Letter Patent Appeal No. 1 (sic) 02 of 1983

Paramjit Singh

APPELLANT

Vs

The Financial Commissioner (Revenue), with Power of Central
Government and Others

RESPONDENT

Date of Decision : 17-07-1990

Acts Referred:

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

Citation : (1990) 98 PLR 468

Hon'ble Judges : J.V. Gupta, C.J;R.S. Mongia, J

Bench : Division Bench

Advocate : H.L. Sihal and Kanwaljit Singh, for the Appellant; S.K. Syal, D.A.G.,
for the Respondent

Final Decision : Dismissed

Judgement

R.S. Mongia, J.—This is a letters patent appeal under Clause X of the Letters Patent, against the judgment of learned Single Judge in C. W. P. 8031 of 1976, decided on 12th October, 1983.

2. Briefly the facts giving rise to this appeal are that the appellant (writ-petitioner) sought the transfer of urban evacuee agricultural land, bearing Khasra, Nos. 535 Min, 1497 to 1500/1192/536 situated in Mehal Beghat and Khasra Nos. 944/761 and 635 Min situated in Taraf Shekhewal, Tehsil and District Ludhiana, under Rule 34-D of the Displaced Persons (Compensation and Rehabilitation) Rules 1985 (hereinafter referred to as the Rules), on the ground that he was a sub-lessee over the land. For this purpose the appellant had made three separate applications in 1969. The Settlement Officer (Urban Lands) decided all these applications in favour of the appellant (writ petitioner), vide orders dated 11th August, 1969, 6th September, 1969 and 10th September, 1969. However, during the scrutiny of these decided cases it transpired that the land had been wrongly transferred in favour of the appellant. A reference was consequently made to the Chief Settlement Commissioner for setting aside the

above said three orders of the Settlement Officer as also the order dated 11th September, 1969 of the Regional Settlement Commissioner, Jullundur, relating to the assessment of the value of the land for the purpose of transfer in favour of the appellant. The Chief Settlement Commissioner, Shri J.S. Quami, vide his order dated 11th October, 1973 (Annexure P-1), accepted the reference and set aside the transfer of the land in favour of the appellant (writ petitioner). Against the order of the Chief Settlement Commissioner, dated 11th October, 1971 the appellant (writ-petitioner) filed a petition u/s 33 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (hereinafter referred to as the Act) before the Financial Commissioner, Revenue, (exercising the powers of the Central Government u/s 33 of the Act). This petition was filed on 6th January, 1975 and the same was dismissed on 20th July, 1976 (Annexure P-2), holding that the petition was badly belated and there was no explanation in the petition for the inordinate delay in filing the same and no case had been made out for exercising the extraordinary and residuary powers of the Central Government u/s 33 of the Act. The appellant then challenged the above said orders by way of writ petition which as mentioned above, was dismissed by a learned Single Judge on 12th October, 1983.

3. The learned Single Judge noticed the fact that the appellant (writ petitioner) could be transferred the land only if he had been in occupation of the same as a sub-lessee since 1st January, 1956. It was further noticed by the learned Single Judge that the Chief Settlement Commissioner found as a fact that the appellant was not a sub-lessee over the land sought to be transferred since 1st January, 1956.

4. The only point which was raised before the learned Single Judge by the writ-petitioner (now appellant) was that the order dated 11th October, 1971 passed by Shri J.S. Quami, Chief Settlement Commissioner, u/s 24 of the Act was without jurisdiction as he had not been delegated with the powers u/s 24 of the Act. It was urged before the learned Single Judge that the only power which Shri J.S. Quami had under Sections 23, 24 and 28 of the Act, which had been delegated by notification dated) 11th November, 1970 were in respect of agricultural land and shops in Rural areas and not in the urban area and the land which had been transferred was in the urban area, and, therefore, the order passed by Shri J.S. Quami was without jurisdiction. This contention was negated by the learned counsel by relying upon a Division Bench judgment of this Court in Financial Commissioner, (Taxation), Punjab, etc. v. Sujan Singh etc. 1980 C.L.J. 22.

5. Mr. H.L. Sibal. learned Senior Advocate for the appellant, submitted that learned Single Judge had wrongly relied on the above quoted authority to come to a conclusion that the order of Shri J.S. Quami, Chief Settlement Commissioner was within his jurisdiction. It is not necessary to go into this aspect, as the learned counsel for the respondents pointed out that there was a specific notification dated 1st May, 1971, delegating the powers to Shri J.S. Quami to

deal with the urban agricultural land under Sections 23, 24 and 28 of the Act. The notification is reproduced below :--

" Government of India Ministry of Labour Employment & Rehabilitation (Department of Rehabilitation) Office of the Chief Settlement Commissioner Jaisalmer House New Delhi, Dated the 1-5-1971.

NOTIFICATION

S. O..... in exercise of the powers conferred on the Chief Settlement Commissioner by Section 34(2) of the Displaced Persons (Compensation and Rehabilitation) Act, 1964 (44 of 1964) he hereby delegates to Shri J.S. Quami, P.C.S., Settlement Officer (Sales) in the Rehabilitation Department of the Punjab State exercising the powers of Settlement Commissioner, his powers under Sections 23, 24 and 28 of the said Act for the purpose of passing necessary orders under Sections in respect of all urban agricultural lands and urban properties situated within the State of Punjab.

Sd/- (W.G. Pathak) Chief Settlement Commissioner."

Faced with this notification, the learned counsel for the appellant conceded that Shri J.S. Quami had been delegated the requisite powers to deal with the matter. That being so, no fault can be found with the order of Shri J.S. Quami (Annexure-1) as the same was not without jurisdiction.

6. The learned counsel for the appellant then submitted that the Financial Commissioner exercising the powers of the Central Government u/s 33 of the Act could not have dismissed the petition as being belated and he should have decided the case on merits. For this he placed reliance on a Supreme Court judgment reported in Union of India and Anr. v. Avtar Singh and Anr. 1985 (1) L.L.R. 76 to contend that there was no limitation for moving an application u/s 33 of the Act.

7. It is admitted by the learned counsel for the appellant that the above mentioned point was not even raised before the learned Single Judge, and, therefore, the question of the learned Single Judge dealing with this point did not arise. Even in the Grounds of Appeal, this point has not been taken. It would not be appropriate to allow the learned counsel to raise this point now at the stage of arguments. Even otherwise, it could not be successfully argued that in each and every case the Authority exercising the powers of the Central Government u/s 33 of the Act must decide the case on merits irrespective of the delay in putting in the application. In appropriate cases, as in the present case, when there was no explanation for the delay in approaching the appropriate Authority u/s 33 of the Financial Commissioner (exercising the powers of the Central Government) was right in non-suited the appellant on the ground of the application being belated.

8. In view of what has been stated above, there is no merit in the letters patent appeal and the same is dismissed. However, there will be no order to costs.