

(1993) 02 SC CK 0066

In the Supreme Court Of India

Case No : Civil Appeal No. 1208 of 1984

Pritam Singh and others

APPELLANT

Vs

State of Punjab and others

RESPONDENT

Date of Decision : 25-02-1993

Acts Referred:

Punjab Public Premises and Land (Eviction and Rent Recovery) Act, 1973 — Section 4

Citation : AIR 1993 SC 1497 : (1993) 4 JT 151 : (1993) 1 SCALE 694 : (1993) 2 SCC 373 Supp

Hon'ble Judges : N. M. Kasliwal, J;Kuldip Singh, J

Bench : Division Bench

Advocate : Swarup John, G.K. Bansal and K.C. Dua, for the Appellant;

Final Decision : Allowed

Judgement

Kuldip singh, J.—Waste land measuring 1182 acres situated in the revenue estate of village Mahablipur-Randhirpur in Kapurthala district, Punjab was acquired for establishing a colony for the Ex-servicemen. A scheme called "Land Colonisation Scheme" was framed. About 100 families of the Ex-servicemen were to be given the benefit of the scheme. 62 Ex-servicemen were given 10 acres of agricultural land each in June, 1961. The Ex-servicemen-settlers developed the waste land by spending money and labour. They were given the ownership rights to the extent of 10 acres each after a period of ten years. On the representation of the settlers a decision was taken at the Government level that additional 5 acres of land be allotted to each of them to enable them to augment their income. It is not disputed that the possession of the additional 5 acres of land was also given to the Ex-servicemen-settlers. By the order dated July 5, 1975 the decision to allot additional 5 acres was withdrawn and the Ex-servicemen-settlers were directed to surrender the land to the Government. 32 Ex-servicemen-settlers challenged the order of the Deputy Commissioner by way of Civil Writ Petition No. 2833/ 75 before the Punjab and Haryana High Court. The writ petition was allowed to be withdrawn on the assurance given by the State Government that

the petitioners would be dispossessed from the land in accordance with law. Thereafter eviction proceedings were instituted u/s 4 of the Punjab Public Premises and Land (Eviction and Recovery) Act, 1973. The Collector by his order dated April 19, 1982 directed the ejection of the Ex-servicemen from the additional area. Appeal filed against the order of the Collector was dismissed on February 21, 1983. Writ Petition No. 1893 of 1983 filed by the Ex-servicemen was dismissed by the High Court in limine by a speaking order. This appeal by way of special leave is against the judgment of the High Court.

2. We have heard Mr. R.K. Jain, learned Counsel for the appellants. The short question for our consideration is whether the additional land measuring 5 acres was allotted to the appellants and possession delivered, or it was only a tentative decision and no right had accrued to the appellants. The High Court examined the documents produced by the appellants to show that the additional land was allotted to them and possession delivered, but gave no finding in that respect. The Deputy Commissioner, Kapurthala by a letter dated March 17, 1966 conveyed to the Secretary, Ex-servicemen Land Colony that a decision had been taken to allot another 5 acres of land temporarily to the Ex-servicemen-settlers. Subsequently by an order dated March 4, 1971 the State Government communicated its agreement to the Deputy Commissioner, Kapurthala for allotting additional 5 acres of land to the appellants. The Government agreed with the decision of the Collector that the limit of the land be fixed as 15 acres instead of 10 acres in Mahablipur-Randhir Colony and the additional 5 acres of land was directed to be given to each of the appellants. As a consequence of the decision of the Deputy Commissioner as agreed upon by the State Government the possession of the additional 5 acres was given to the appellants.

3. It is no doubt correct that no specific order was communicated to the appellants allotting them the additional 5 acres of land and even the original scheme which provided for allotment of 10 acres was not amended, nevertheless a decision having been taken at the level of the Deputy Commissioner/State Government and possession delivered to the appellants it is difficult to hold that no right had accrued to the appellants. The appellants are in possession of the additional 5 acres of land for over two decades. The learned Counsel for the State of Punjab has, however, argued that according to the scheme 100 families of the Ex-servicemen were to be settled on the acquired land. 62 families were initially settled on the land and subsequently 21 more were settled. According to him there are still 17 Ex-servicemen who are to be settled but no land is available to accommodate them.

4. We have given our thoughtful consideration to the arguments of the learned Counsel on both sides. We are of the view that interest of justice would be met if we permit the appellants to retain two acres each out of the additional 5 acres and surrender the remaining 3 acres each to the Government so that the land available be utilised for settling the remaining 17 families of the Ex-servicemen. Learned Counsel for the parties are not averse to this arrangement. We,

therefore, direct that out of the additional 5 acres of land in possession of the appellants they be permitted to retain 2 acres and to surrender the remaining 3 acres to the respondent-Deputy Commissioner, Kapurthala on or before June 30, 1993. The net result is that the appellants shall be entitled to retain 12 acres of land each under the scheme.

5. The appeal is allowed to the above extent. No costs.