
(1972) 11 P&H CK 0011
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ No. 1086 of 1972

Ram Saran Dass Suraj Bhan

APPELLANT

Vs

The Central Government, Haryana and Others

RESPONDENT

Date of Decision : 24-11-1972

Acts Referred:

Constitution of India, 1950 — Article 226, 227

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

Citation : AIR 1973 P&H 371

Hon'ble Judges : C.G. Suri, J

Bench : Single Bench

Judgement

1. Two persons contending for the same evacuee house situated in the town of Sirsa have separately filed Civil Writ Petitions Nos. 1086 and 1662 of 1972 under Articles 226 and 227 of the constitution of India to challenge the correctness of an order dated 22-2-1972 (Annexure "C" to Civil Writ Petition No. 1086 of 1972) passed by the Secretary to Government, Haryana (respondent No. 1) exercising the powers of the Central Government u/s 33 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954. Both these petitions can be conveniently disposed of together.

2. The facts of the case are that a public auction of the evacuee house in question was held on 17-3-1960 and Shri Ram Saran Dass petitioner in Civil Writ Petition No. 1086 of 1972 had made the highest bid of Rs. 12,200/- at that auction. According to Rule 90(8) of the Displaced Persons (Compensation and Rehabilitation) Rules 1955, as then prevailing, he had to deposit ten percent of the price as earnest money on the fall of hammer but as he was a displaced person having verified claim for compensation, he was allowed to execute an indemnity bond in the prescribed form given in Appendix XXI-A to the Rules. He, however, took no steps for more than ten years to deposit the earnest money or the balance of the price and it may appear that no progress towards the completion of the sale was made by the parties in accordance with the provisions of the various sub-rules of Rule 90 ibid. It was in fact found in 1968 that the

verified claim that the petitioner had furnished as security for the earnest money had been spent up for exhausted. There is, therefore, nothing on record to suggest that any completed sale in favour of Shri Ram Saran Dass Petitioner had been effected so as to bring in the application of Rule 92 which lays down the procedure for the setting aside of a sale which has been made under Rule 90 or 91. In fact the petitioner's bid had never been formally accepted by any officer or authority having jurisdiction to do so and the terminus a quo for the making of an application for the setting aside of the sale had not arisen as visualised by Rule 92(2)(a) *ibid*.

3. The house in dispute was in the occupation of one Gian Chand allottee up to the year 1964. It is no apparent from the record how Gian Chand ceased to be in occupation and how Arjan Singh petitioner in Civil Writ Petition No. 1662 of 1972 came to be in possession. He was, however, not a displaced person according to respondents Nos. 1 to 5. He had been asked to furnish an affidavit if he claimed to be a bona fide displaced person but no such affidavit has been furnished by him so far. In 1967, Shri Arjan Singh petitioner had put in an application for the transfer of the property in his favour. The Managing Officer had rejected that application on 22-11-1968 on the ground that no orders for the appearance or rejection of the highest bid made at the public auction on 17-3-1960 by Shri Ram Saran Dass petitioner had been passed by any competent authority. Shri Arjan Singh had made a second application to the same effect on 5-5-1969. The Managing Officer had recommended by his order dated 12-9-1969 that the property may be transferred to Shri Arjan Singh subject to its allotability. According to certain policy instructions issued by the department, evacuee units having a value of more than Rs. 10,000/- could not be transferred to reserve price. This maximum limit had been raised to Rupees 15,000/- in 1963. The property was above the maximum limit of allotability when it was auctioned in 1960 as may appear from the highest bid made by Shri Ram Saran Dass. The prices of the property have been steeply going up throughout the last ten years and it can safely be assumed that by the year 1967 when Shri Arjan Singh made his first application for the transfer of the property, the margin of about Rs. 3,000/- between the highest bid made for the property in 1960 and the maximum limit as raised in 1963 had been covered by the increase in prices. If this were not so, Shri Ram Saran Dass petitioner would have no grievance against the impugned order which still affords him an opportunity to purchase the property at a public auction at the prevailing market rates.

4. By the impugned order, respondent No. 1 has directed that the property should be re-auctioned. He has given very cogent reasons for invoking his residuary powers u/s 33 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954. It was held by this Court in *Girdhari Lal Bulaki Ram and Another Vs. L.J. Johnson and Others*, that the extensive powers conferred on the Central Government by this section are not restricted by the fact that a bid had been accepted and a communication to that effect had been sent to the bidder. In the present case, the proceedings under Rule 90 had not even

advanced up to the stage of the acceptance of the petitioner's bid or the issue of any intimation to that effect. The petitioner had not even cared to deposit the earnest money of ten per cent for a number of years and had furnished an indemnity bond on the security of an instrument which was worthless. The ruling in Labh Singh Atma Singh Vs. Union of India and Others, , relied upon by Shri Punchhi, the learned counsel for Shri Ram Saran Dass petitioner is, therefore, of little help to him. We have no dispute with the proposition laid down in this ruling that the Central Government's powers u/s 33 are residuary and are to be used as a last resort but respondent No. 1 may appear to have made out a very special case in the impugned order for the invocation of these residuary or extraordinary powers and it is not for this Court to interfere with the plenary powers where the jurisdiction may appear to have been exercised in a reasonable manner and the authority is not shown to have transgressed the limits of its jurisdiction. The petition filed by Shri Ram Saran Dass is, therefore, found to be without any force or substance.

5. Shri Arjan Singh, petitioner in Civil Writ Petition No. 1662 of 1972, has been denied the right to get the property transferred to his name at a reserve price because he is not a displaced person. There is nothing on record to show that the value of the property is below the maximum limits laid down for its allotability. Shri Mittal, the learned counsel for Shri Arjan Singh, petitioner, could not point out any statutory provision in the Act or the rules on which his claim is based. The policy instructions issued on the subject by the department are not shown to confer any absolute legal rights which could be enforced in a Court of law. It may further appear that Arjan Singh was only an unauthorised occupant of the property and was not entitled to a transfer in his favour, even according to the administrative instructions issued by the department. It has been held by a Division Bench of the Delhi High Court in Amar Singh v. The Union of India (1967) 69 PLR 132 : AIR 1967 Del 110 that even a displaced person has not been conferred with any right to have the property transferred to him and cannot have a mandamus issued for the allotment or transfer of the property in his favour.

6. Both the writ petitions are accordingly dismissed. The petitioner in each case shall pay the costs of respondents Nos. 1 to 5.

7. Petition dismissed.