

(1963) 09 P&H CK 0028
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ No. 1449 of 1962

Rattan Singh and Another

APPELLANT

Vs

Union of India (UOI) and Another

RESPONDENT

Date of Decision : 19-09-1963

Acts Referred:

Constitution of India, 1950 — Article 226, 227
Displaced Persons (Compensation and Rehabilitation) Act, 1954 — Section 12, 24,
24(2), 24(3), 24(4)

Citation : (1964) 1 ILR (P&H) 338

Hon'ble Judges : Gurdev Singh, J

Bench : Single Bench

Advocate : H.S. Wasu, for the Appellant; C.D. Dewan, D.A.G., Y.P. Gandhi and B.S. Wasu, for the Respondent

Judgement

Gurdev Singh, J.—The Industrial Establishment No. 164, Batala, which was an evacuee concern, was leased out to Ujagar Singh (Respondent No. 5) at a public auction on 14th August, 1951. After the acquisition of the property by the Central Government u/s 12 of the Displaced Persons (Compensation and Rehabilitation) Act, Ujagar Singh obtained the same on payment of its assessed price (Rs. 7971) and a sale-certificate was issued in his flavour by the District Rent and Managing Officer on 26th June, 1957. On 29th November, 1957, Ujagar Singh sold it to the Petitioners, Rattan Singh and Gurbachan Singh, under a registered sale deed for the same consideration for which he had himself got it from the Rehabilitation Department.

2. Several years later, on a reference having been made by the Inspecting Officer (P), Shri CLP. Spara, Settlement Commissioner, exercising the delegated powers of the Chief Settlement Commissioner, by his order, dated 13th February, 1962 (annexure C to the petition), set aside the original sale in favour of Ujagar Singh, cancelling his sale certificate, dated 26th June, 1957. This order was passed after notice to Ujagar Singh, but long before that he had ceased to have any interest in the property, as he had sold away the same to the Petitioners, Rattan Singh

and Gurbachan Singh. On commg to know of the cancellation of the sale, Rattan singh and Gurbachan Singh, applied for revision u/s 33 to the Central Government, but the same was rejected. Failing to got any redress, the Petitioners have invoked the jurisriktion of this Court under Articles 226 and 227 of the Constitution.

3. The sole ground of attack against the order of the Chief Settlement Commissioner cancelling the sale in favour of Ujagar Singh is that such an order could not be passed without notice to the Petitioners who were in possession of the property as owners under a sale made by Ujagar Singh in their favour much earlier. This contention, in my opinion, has considerable force. Admittedly, the impugned order was passed by the Chief Settlement Commissioner u/s 24 of the Displaced Persons (Compensation and Rehabilitation) Act, Sub-section (3) whereof specifically provides:

No order which prejudicially affects any person shall be passed under this section without giving him a reasonable opportunity of being heard.

4. It is argued on behalf of the Respondents that since the sale, which was the subject matter of the cancellation proceedings, was made in favour of Ujagar Singh only, he alone was entitled to a hearing, and the present Petitioners, who are alienees from Ujagar Singh, were not entitled to any notice. I find myself unable to accept this argument as it is against the clear language of Sub-section (3) of Section 24. According to that provision, a person who is prejudicially affected by an order made u/s 24 must be afforded an opportunity of being heard. Since the Petitioners were in possession of the property as bona fide transfers from the original purchaser Ujagar Singh for valuable consideration, there can be no doubt that the order of cancellation of the sale prejudicially afficted them. In fact, they were the only persons to whose prejudice the order operated as Ujagar Singh had ceased to have any interest in the property and had recovered from them the amount that he had paid to the Rehabilitation Authorities as purchase money. The words used in Sub-section (3) of Section 24" is not an allottee or the person to whom proprietary rights had been granted, but, "any person" who may be prejudicially affected by the order, which must include, a bona fide transferee for valuable consideration. This provision has been advisedly made as the legislature was conscious of the fact that after the proprietary rights are granted to the allottees or the property sold away, there may be further transfers by the persons acquiring ownership rights, and it would be unjust to pass orders behind their back and to their prejudice especially when the original purchasers or the allottees may not feel interested in defending the allotments or sales.

5. A clue to the interpretation of Sub-section (3) of Section 24 is provided by Sub-section (4) of that section which provides that any person aggrieved by an order under Sub-section (2) can apply for revision of the order to the Central Government. If it is held that the Petitioners were not entitled to a notice of the proceedings taken by the Chief Setltement Commissioner for cancellation of the

sale, it would mean that they would have no right to question, his order by way of a revision under Sub-section (4) of Section 24 of the Act despite the fact that such an order operated entirely to their prejudice. This would be clearly contrary to the intention of the legislature as expressed in Sub-section (4) of Section 24 of the Act.

6. I accordingly, find that the Petitioners were entitled to notice of the proceedings before the Chief Settlement Commissioner, and since they had not been afforded an opportunity of being heard, the order of the Chief Settlement Commissioner, dated 13th February, 1962, is quashed. The petition is accepted with costs against both the Respondents.