

(1964) 09 P&H CK 0042
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ No. 491 of 1962

Sadha Singh and Others

APPELLANT

Vs

Guran Ditta and Others

RESPONDENT

Date of Decision : 23-09-1964

Acts Referred:

Compensation Act, 1954 — Section 33
Constitution of India, 1950 — Article 226
Punjab Colonization of Government Lands Act, 1912 — Section 15

Citation : AIR 1965 P&H 225

Hon'ble Judges : I.D. Dua, J;D.K. Mahajan, J

Bench : Division Bench

Judgement

Dua, J.

(1) (18-2-1964) Sadha Singh along with his brothers have presented this petition under Article 226 of the Constitution asserting that they originally belonged to village Pehuwind, Tehsil Patti, District Amritsar but went to District Montgomery (now in West Pakistan) as colonizers and took up their residence in Chak, No. 55/12-L, Tehsil and District Montgomery. respondents Nos. 1 to 6 also owned land in he same Chak. On 3-11-1945, by a registered sale-deed, the said respondents sold 50 acres of land in the same Chak to the petitioners along with their brother-in-law S. Bachan Singh for a sum of Rs. 25,000; the petitioners share was three-fourths and Bachan Singh's one-fourth. Later, Bachan Singh also sold his one fourth share to the petitioners, thus making them full owners of entire area of 50 acres. A sum of Rs. 12,700 out of the purchase price was taken by the respondents Nos. 1 to 6 on 2-11-1945 for the purpose of depositing it in favour of the Provincial Government on account of Zar-i-malkana and the balance of Rs. 12,300 before the Sub-registrar at the time of the registration of the conveyance-deed on the following day. The Zar-i-malkana, it is asserted, was actually deposited in the Government treasury and all these facts were actually mentioned in the sale-deed itself. The petitioners on account of the purchase also took possession of the land and so continued in possession till the partition of the

country in 1947; the revenue records on the file of the rehabilitation authorities support it, there being the following entry in them:

"Petitioners in possession as cultivation Bila Lagan Bawaja Bai"

In 1947, the mutation in favour of the petitioner was rejected because on account of disturbance the parties could not appear before the revenue authorities in West Pakistan. This land, according to the petitioners' case, was originally taken by respondents Nos. 1 to 6 under the Colonization of Government Lands Act and the Zar-i-malkana, as stated earlier, was deposited on 3-11-1945.

(2) After partition the petitioners were allotted 5 standards acres and $7\frac{3}{4}$ units each in lieu of the above land because as colonizers they came back to their own village of origin. respondents Nos. 1 to 6 also got allotment of the land in their favour in lieu of the aforesaid land which they had sold to the petitioners. This allotment, it is asserted, was obtained by fraudulently concealing the true facts. The petitioners acquired permanent rights in the land allotted to them in 1955-56 and the original records are stated to be on the file of the Chief Settlement Commissioner who decided the matter on 27-5-1960.

(3) The Managing Officer referred the petitioners' case to the Chief Settlement Commissioner for cancelling their allotment who accepted the recommendation on 27-5-1960 as per Annexure "A" to the petition. In this Annexure, it may be pointed out, on behalf of the vendors, it was urged that the sale in question was prohibited by the law in Montgomery and was, therefore, void, with the result that no interest passed to the vendees. The learned Chief Settlement Commissioner has also observed that the record received from Pakistan showed that the provincial Government was still the owner of the land and that the vendees had no proof with them to show full payment to the Government and conveyance by the Government in favour of the vendors. The petitioners thereupon approached this Court by means of a writ petitions No. 1194 of 1960, but Tek Chand, J. hearing the petition accepted a preliminary objection raised on behalf of the opposite party that there was an alternative remedy by way of revision to the Central Government which the petitioners should avail. The petitioners accordingly preferred a revision to the Central Government which was dismissed on 9-2-1961 as per Annexure "B". From that order, it appears that the amount of Rs. 12,700 said to have been paid to the vendor was not paid in the Government treasury because the revenue records received from Pakistan showed the Provincial Government to be the owners of the land. The sale deed in favour of the petitioners was thus considered to be void.

It is after this decision by the Central Government that the present writ petition has been presented and it has been urged that the petitioners are in fact the owners of the land having paid the entire consideration to the respondents, who, according to the petitioners' case, had also deposited Zar-i-malkana in the Government treasury. Emphasis has been laid in the petition that respondents

Nos. 1 to 6 cannot take advantage of their own fraud and get allotment of the land in lieu of the land left in Pakistan. Reference in the writ petition has also been made to Annexure "C", an order of the Settlement Commissioner exercising powers of the Chief Settlement Commissioner dated 18-7-1959 in which it is expressly asserted that the execution of the sale-deed was not denied by the vendors who were alleging non-receipt of full consideration but the endorsement made by the Sub-Registrar at the time of registration and the recitals in the sale-deed that the entire consideration had been received by the vendors from the petitioners was noticed by the said officer. The learned Chief Settlement Commissioner further proceeds to state that the mutation was in fact rejected on 28-5-1947 on account of disturbances as none of the parties could merits that consideration had not been paid. Observing that double allotment in lieu of the land in question left in Pakistan could not stand, the learned Chief Settlement Commissioner ordered maintenance of status quo leaving it to the Settlement Commissioner to decide the appeal pending before him. Emphasis has also been laid in the writ petition that the sale-deed was registered at Montgomery only after production of the receipt relating to deposit in the Imperial Bank of India, Montgomery.

An affidavit in reply sworn by Gopal Singh, respondent No. 3, on 18-11-1962 has been produced in which it has been asserted that respondents No. 1 to 6 being tenants under S. 15, Punjab Colonization of Government Lands Act, were not competent to sell the land in dispute and also that the alleged sale-deed was executed without consideration and is fraudulent because the vendors had not received the consideration. The finding of the departmental authorities that full payment had not been made the Government is pleaded to be one of fact not assailable in writ proceedings. The petitioners are alleged to have secured allotment by means of fraud and misrepresentation. The execution of a sale-deed by the Government in favour of tenants, according to this affidavit, is not a mere formality and "mere alleged payment of the Zar-i-malkana does not make the tenant an owner". In this connection it is emphasised that according to law without the written sanction of the Collector, the land in question in Pakistan could not be validly transferred.

(5) It has been contended before me by Shri Sibal, the learned counsel for the petitioners, that the learned Deputy Secretary to the Government of India who disposed of the petition under S. 33 of the Compensation Act (Act No. 44 of 1956) has not gone into all the grounds taken in the petition and that, therefore, the order deserves to be quashed. Specific reliance has been placed on ground(h) in paragraph 11 of the petition which contains the petitioners' case in the clearest possible terms. In reply Shri Wasu appearing for respondents No. 1, has emphasised that there is no assertion that this point was argued by the petitioners. The sale in question, according to the learned counsel, is void and, therefore, incapable of transferring any right, title or interest. Reliance has been placed on *Hussian Bakhsh v. Sarbuland* AIR 1926 Lah 14, which lays down that an agreement by a Government tenant admitting his brother to a share in his

tenancy without the previous consent in writing of the Commissioner under S. 19, Punjab Colonization of Government Lands Act, is void. Support has further been sought from *Preman v. Hardit Singh* AIR Lah 835 for the proposition that a transfer prohibited by S. 19 is void also between the parties to the transaction and not only against the Commissioner. This observation, according to the headnote, appears to be an obiter. Lastly, reference has been made to an unreported judgment by Gosain, J. in *Ragha Singh v. Vhanan Sing*, R. S. A. No. 158 of 1957(Punj) in which a tenure known as "harp conditions" in Sind (now in Pakistan) governed by Bombay Act 3 of 1988 was considered to be somewhat analogous to the one on which occupancy rights were held by certain persons in the United Punjab under the Colonization of Government Lands Act and S. 8 of the Bombay Act reproduced therein was held to provide an absolute prohibition with regard to the sale of the land covered by the said Act, and it was observed that a sale contrary to that section must be held to be void. It is argued that no identical reasons, the present sale should also be held to be void.

(6) Shri H. L. Mittal who also appeared for some of the respondents has placed reliance on *Qadir Bakhsh v. Hakam* ILR Lah. 713 : AIR 1932 Lah 503 (FB) in support of his argument that the petitioners should not be allowed to take advantage of their own fraud which they have committed because they must be assumed to have known that the sale in their favour was void.

(7) In reply, Shri Sibal has again emphasised that the learned Deputy Secretary to the Government of India has not performed his duty and has not decided all the points before him in the lengthy petition which the opening sentence of his order shows "he has gone through". According to the learned counsel, it is a fit case in which this Court should direct the learned Deputy Secretary to decide all the points raised.

(8) The arguments addressed at the bar bring out the importance of the question raised. The grounds contained in the petition under S. 33 of the Compensation Act clearly disclose the vital points raised for the consideration of the authority concerned. The learned Deputy Secretary also seems to suggest that he had gone through the petition but surprisingly enough, the speaking order does not show that he had actually considered the vital points which called for his judicial determination. The question also arises whether while considering the error of law apparent on the face of the record, it is permissible to look also at the grounds of revision along with the impugned order. The controversy has been pending since a long time and even this Court referred the petitioner to an alternative remedy u/s 33 of the Compensation Act as far back as November, 1961. The points raised, as just stated, are of great importance and deserve to be more authoritatively settled by a larger bench without avoidable delay.

(9) I accordingly direct that the papers be laid before my Lord the Chief Justice for suitable orders under Chapter 3-B, Rule I, clause (xx) proviso (b) read with clause (xxxviii), High Court Rules and Orders. Vol. V.

[The case was then referred to a Division Bench consisting of I. D. Dua and D. K. Mahajan, JJ., who delivered on 23-9-1964, the following:]

ORDER

(9A) The circumstances in which this writ petition has been presented are fully given in my referring order, dated 18-2-1964 which may be read as a part of this order and therefore, need not be restated.

(10) The petitioners learned counsel has submitted that Tek Chand, J., disposing of the petitioners' earlier writ petition (Civil Writ No. 1194 of 1960 (Punj) had upheld the respondent's preliminary objection that the revision to the Central Government had not been availed of by the petitioners without assigning any reason, and that the petitioners were accordingly not heard on the merits. Thereafter, the petitioner, so argues the counsel, approached the Central Government giving all the facts and circumstances of the case and the grounds and grievance. The impugned order of the Deputy Secretary to the Government of India. Ministry of Rehabilitation, dated 9-12-1961, according to the learned counsel, shows that the said officer has not applied his mind to the facts of the case and has illegally disallowed the revision in a very superficial manner. The real point in controversy which arose for determination appears to have been ignored and in a very brief order, without adverting to the petitioners' real contention or points of law, his petition has been rejected. The real basis of the order of the learned Deputy Secretary is that the petitioners has paid to the vendors Rs. 12,700 for depositing in Government treasury for the purpose of acquiring ownership rights in land in question but the said amount was not paid in the Government treasury by the vendors. This has been assumed because the revenue records received from Pakistan still show the Provincial Government as owners of the land. It is emphasised that this is a grave error of law on the face of the record because the ownership entry of the Government in the revenue records on the facts and circumstances of this case does not in law displace or rebut the admissions of the vendors Guranditta, etc. in the sale-deed itself that the amount had actually been deposited and that the vendors has thenceforth nothing to do with the land in question of which the vendees had become full and complete owners. According to the sale-deed, a sum of Rs. 12,700 had been received by the vendors on 2-11-1945 for the purpose of deposit and the balance of Rs. 12,300 was received before the Sub-Registrar, Montgomery, of which there is an official endorsement at the back of the registered sale-deed.

Reference on behalf of the petitioners has been made to Syed Yakoob Vs. K.S. Radhakrishnan and Others, , for the proposition that whether or not an impugned error is an error of law which is apparent on the face of the record, depends on the facts and circumstances of each case and upon the nature and scope of the legal provision which calls for construction. Ghaio Mall and Sons Vs. The State of Delhi and Others, , has also been cited for the contention that the whole object of a writ of certiorari is to bring up the records of the inferior Court or other quasi-judicial body for examination by the superior Court so that the latter may

be satisfied that the inferior Court or the quasi-judicial body has not gone beyond its jurisdiction and has exercised its jurisdiction within the limits fixed by the law. In support of the claim that this Court should interfere, reliance has further been placed on *The Provincial Transport Service Vs. State Industrial Court*, and *Hari Vishnu Kamath v. Ahmad Ishaque* (S) AIR 1955 SC 263.

(11) As against this, Shri Wasu has submitted for the respondents that every ground taken in the grounds of revision need not be discussed by the Central Government in its order, and for this submission reference has been made to *Ranjit Singh v. Union of India* 1962 64 PLR 44 where a Bench of this Court laid down that S. 33 of the Displaced Persons (C and R) Act does not confer a power of revision but it is meant merely to enable the Central Government to exercise its residuary powers and, therefore, a personal hearing need not necessarily be given before the decision of the Government declining to interfere with the order objected to is communicated to the aggrieved party. Reliance has next been placed by Shri Wasu on AIR 1930 Lah 835, which lays down that a transfer of rights of a tenant prohibited by S. 19 of the Punjab Colonization of Government Lands Act is void even between the parties to the transaction and not only as against the Commissioner. It may be pointed out, however, that this observation is clearly an obiter because Ahadi Lal, C. J., who prepared the judgment of the Bench, was careful enough to preface his view with the observation that on his holding on the merits, it was unnecessary to consider the question whether a transfer of tenancy prohibited by S. 19 is void or merely violable between the parties to the transfer. Shri Wasu has also made a reference to paragraph 20 at page 74 of the Land Resettlement Manual by Tarlok Singh, according to which no account need to be taken of transfers effected orally or through unregistered documents and which also contains some executive instructions in respect of transfers by means of registered does I do not think this paragraph by any means affects the question before us or lays down any positive rule of law commanding obedience.

(12) Shri Harbans Lal Mittal on behalf of his clients has made a reference to paragraph 167 at page 71 of the Punjab Colony Manual which points out the restriction on alienation in the case of purchases by installments. This paragraph, so far as relevant for our purposes, shows that no restrictions are imposed on the power of alienation once proprietary rights have been acquired, though stringent restrictions are maintained so long as the period of tenancy subsists and that there is a stage of tenancy intervening the commencement of a sale transaction until the full purchase price has paid for which special provision is made in the conditions of sale binding on purchasers until the transaction is completed. Under this a purchaser is forbidden to alienate any portion of the lot sold to him, before he has received a deed of conveyance, without the sanction in writing of the Collector. This paragraph, then proceeds to give the history of the introduction of such provisions in various portions of West Punjab which is now in Pakistan. The counsel has in this connection also drawn our attention to Ss. 15 and 19 of the Colonization of Government Lands (Punjab) Act, 1912.

Under S. 15 a purchaser from the Government of land who has been placed in possession of the land by order of the Collector is to be deemed to be a tenant of such land until the full amount of the purchase money with any interest due thereon has been paid and other conditions of sale set forth in the statement issued by the Collector have been fulfilled, and under S. 19, except as provided by S. 17, none of the rights or interests vested in a tenant by or under the Government tenants (Punjab) Act, 1983 or the Colonisation Act can, without the consent in writing of the Commissioner, or of such officer as he may empower by an written order in this behalf, be transferred or charged by any sale, etc., other than a sub-lease for not more than one year, a contingency with which we are not concerned in this case. Any such transfer or charge without the said consent in writing is declared to be void and of after the commencement of the Colonization Act, the transfer has obtained possession he can be ejected under the orders of the Collector.

It has been emphasised that according to these provisions, the sale in questions must be considered to be non-existent or non-est and the vendor is fully entitled to ignore the transaction and assert his title to the land, the receipt of the money by him notwithstanding. Our attention has in addition been drawn to AIR 1926 Lah 14 in which it is laid down that an agreement by a Government tenant admitting his brother to a share in his tenancy without the previous consent in writing of the Commissioner under S. 19 is void. In the reported case, one S had been given by the Government in 1903 a horse breeding grant of two squares in Sargodha Tehsil and about nine years later, he executed a document reacting that his brother H and he had jointly purchased the mare required for the grant of land and paid for the grant out of joint funds with the result that they were jointly liable for their debts, and that the land would be considered their joint property in future. The document further stated that H was to continue to cultivate one of the squares and S the other; in case S resiled from the agreement, he was to pay Rs. 5,000 to H. S some time later applied for insolvency and was adjudicated insolvent. H tired to have one square or its produce released on the strength of the document of 1912. It appears that some arrangement was arrived at between S and his creditors leading to the insolvent's discharge, because in 1922 one of the creditors applied to the insolvency Court to have S declared insolvent again. H thereupon filed objections to the attachment of one square which were dismissed by the District Judge with the following order:

The claims to be the owner of one square out of two squares held by the insolvent. Hussain Bakhsh has sometimes put in a claim for the produce of the land as a tenant and has once asked to be admitted as a creditor to the extent of Rs. 5,000, if this claim to one square was not allowed, but my predecessors have not admitted his rights. I am not prepared to re-open the question. He may have the question if he likes decided by a Civil Court. The application is accordingly, rejected."

This was followed by a suit by H for a declaration that he had the same right in the square assigned to him as S had in the other square. This suit was dismissed on the ground that the plaintiff's title has been finally decided against him under S. 4(2), Provincial Insolvency Act by the Insolvency Court and that the document of 1912 was contrary to S. 19 of the Colonization Act. H preferred two appeals in the High Court, one against the order dismissing his suit and the other against the order of the District Judge of 1923 in the insolvency proceedings. In the latter appeal, it was contended in the High Court that there was nothing in S. 19 of the Colonization Act to preclude the grant of a decree giving effect to the agreement of 1912 which would be binding only on the parties to the suit and would not effect the rights of the Government. Disposing of this contention, it was observed that S. 19 contains an express provision that transfers contrary to its other provisions shall be void and that the enforcement of the argument of 1912 by declaration had been rightly refused by the trial Court. It is obvious that the facts of the reported case are materially different and there was no question of the full purchase money having been paid and admitted by the vendor to have been deposited in the treasury.

Next, our attention has been drawn to ILR Lah 713: AIR 1932 Lah 503 (FB) a decision by a Full Bench of the Lahore High Court, from which some passage from Taylor in his "Treatise on the Law of Evidence" quoted in the body of the judgment has been relied upon for the submission that where a document is executed in contravention of statute, or of public policy, neither party can be estopped from proving those facts which would render the instrument void *initio* for although a party would thus in certain cases be enabled to take advantage of his own wrong, yet the evil is of trifling nature in comparison with the flagrant evasion of the law that would result from the adoption of any opposite rule. The Court, according to this passage, should itself, upon the illegality appearing upon the evidence, take notice of it, for no polluted hand should touch the pure fountain of Justice. It is instructive to reproduce the final opinion of the Full Bench in the very words of Tek Chand, J., who had written the main judgment:

" * * * * if in a suit by the ostensible mortgage for possession, the defendant claims to be the real beneficiary under the mortgage transaction, there is no bar either under the general law or under the provisions of the Punjab Alienation of Land Act to the defendant pleading the joint fraud of himself and the plaintiff, and by proving the true facts, to defeat the latter's claim, there being ample provision in the law to set matters right, after it has been determined that the provisions of the Statute had been evaded by a colourable transaction having been entered into."

(13) This decision, in my opinion, is wholly unhelpful to the respondents in the case before us. As noticed earlier, there seems to be not restriction on the power of alienation once proprietary rights have been acquired and the restrictions are apparently meant against the transfer of tenancy rights because of the Government's interest in realising the lease-money and also in making the

scheme of colonization successful. Incidentally, it may also be pointed out that the Colony Manual from which certain passage has been referred to at the bar has indisputably been complied under the orders of the Government for administrative convenience and it is expressly stated not to be authoritative. If according to the recital in the registered sale-deed itself, the whole purchase money has been received by the vendors and the Zar-i-malkana is asserted by them to have been deposited and possession also given to the vendees with an undertaking that the necessary mutation would also be got entered by the vendors, I fail to see how any basic principle of public policy would be violated if this deed is given full effect, even though we do not have now before us a direct affirmative proof in the form of receipt of actual deposit of the price and of the requisite consent of the Commissioner or other duly empowered officer. The receipt and the consent, it may be remembered, must have been with the vendors who are now interested in going back on their sale-deed and the recitals therein.

In this connection, it may appropriately be pointed out that under S. 32 of the Colonization Act, when the Collector is satisfied that any person has taken or is in possession of land in a colony, to which he has no right or title, the Collector is empowered, inter alia, forthwith to enter upon the land and resume its possession as also possession of crops, trees and buildings thereon on behalf of the Government without paying any compensation whatsoever. It is nobody's case before us that the petitioners were so dispossessed by the Collector up to the partition of the country in August, 1947. Had the deposit not been made, as represented by the vendors, the Collectors of Montgomery would in all likelihood have dispossessed the petitioners. Indeed, as the order of the Chief Settlement Commissioner, dated 27-5-1964 (Annexure "A" to the writ petition) show the vendors had also secured allotment in lieu of this very land in their favour in the allegation that they were owners thereof which according to the law they could only be if the purchase money had been deposited by them. Merely because the revenue records received from Pakistan still show the Provincial Government as owner of the land can obviously not be conclusive for holding that the amount had not been deposited in the Government treasury in Pakistan.

(14) The respondents have strongly urged that the order, dated 9-12-1961 of the Deputy Secretary, Ministry of Rehabilitation, is concluded by a finding of fact which this Court is not empowered in these proceedings to evaluate or reconsider. It has been emphasised that although the grounds of revision to the Central Government are detailed and contain full arguments, it is not necessary that the order passed on revision should give all the reasons on which it is based or for that matter give any reason, and that the law does not require the order to be a speaking order. I may agree for the purpose of this case that the order on revision need not give reasons in support of the conclusion, but if reasons are given, then it appears to me that it would be open to this Court to see that the conclusions and the reasons in support thereof are not tainted with an apparent legal infirmity exposing them to challenge in writ proceedings, and for this

purpose, it would certainly be open to this Court to look at the entire relevant record including the grounds of revision. It is a matter of common knowledge that in March, 1947, widespread communal riots had broken out in West Pakistan and the normal functioning of various Government departments including revenue departments had been seriously obstructed. Absence of mutation entry in this background can scarcely disprove deposit which was admitted in the registered sale-deed. The mutation entry, it may be remembered, does not create title. In the case in hand, title was really created by the sale-deed itself, of course provided the price had been deposited in the treasury for completing the vendor's title to enable them to transfer it. To base the conclusion merely on the absence of entry of mutation in the revenue records (which of course had from the very nature of things to take a long time as mutation first in favour of the vendors and then in favour of the vendees had to be entered) in the face of clear unequivocal admissions and recitals in the sale-deed, as also of the fact that the vendors too claim to have become the owner of the land and are seeking allotment on that basis, and completely ignoring the historical fact of unprecedented politically and socially disturbed and administratively paralysed situation in West Pakistan during the relevant period, may well constitute a grave and material error of law appearing on the face of the record and of the impugned order, vitiating the same. It may be pointed out in this connection that in paragraph 4 of the writ petition it has been asserted that the relevant authorities. In reply, it is not denied that mutation was rejected in 1947, but it is stated to have been rejected because respondents Nos. 1 to 6 were not owners of the land. Now, if the respondents' version were to be taken to be true, then the Collector would presumably have forthwith dispossessed the petitioners under S. 32 of the Colonization Act, which, needless to repeat, is no body's case. The mutation, according to the department, was rejected in May, 1947.

(15) But this apart, there is also another way of looking at the matter and dealing with it. The question now before the department is whether the petitioners or their vendors (respondents in this Court) are entitled to have the allotment in lieu of the land left in Pakistan; the petitioners having already acquired permanent rights and granted the requisite sand under the law. The vendors having received the whole money and parted with possession in favour of the petitioners and having also solemnly represented that the Zar-i-malkana had been deposited in Pakistan, in our opinion, they should not be allowed to rely on their fraudulent conduct is not depositing the amount in the treasury and in not having the requisite mutation entry entered in the revenue papers to the petitioners' serious prejudice and detriment. The petitioners can be no means be considered to have either committed or been a party to any fraud because they have parted in an honest manner with the whole amount and the vendors had actually represented that the purchase money, taken from the petitioners in advance prior to the registration of the sale-deed, had been deposited in the treasury. Possession was also handed over to the present petitioners and the vendors further undertook to have the requisite mutation entered. Failure on the

part of the vendors to deposit the amount, if it can be so held in this case of which we are by no means convinced, can on no reasonable ground be constructed to amount to fraudulent conduct on the part of the petitioners, as has been ingeniously contended on behalf of the respondents-vendors. The authorities cited by the respondents as precedents scarcely support their contention. There is clearly no evidence on the record establishing fraud by the petitioners. Needless to point out that on the record we have not been shown any evidence from which it can be reasonably concluded that the petitioners had secured the allotment and the sanad by fraud or misrepresentations.

(16) For all the foregoing reasons, in our opinion, this petition must succeed and allowing the same we make the rule absolute and quash the impugned orders whereby the allotment made in favour of the petitioners was cancelled. In the peculiar circumstances of the case, however, there would be no order as to costs.

(17) Petition allowed.