
(1962) 04 P&H CK 0023
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ No. 1638 of 1961

Satnam Singh

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 04-04-1962

Acts Referred:

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

Citation : (1962) 04 P&H CK 0023

Hon'ble Judges : Shamsher Bahadur, J

Bench : Single Bench

Advocate : H.S. Wasu, for the Appellant; Nemo, for the Respondent

Final Decision : Allowed

Judgement

Shamsher Bahadur, J.—Satnam Singh petitioner has prayed for interference of this Court in writ proceedings to quash the order of the Central Government (Annexure E) u/s 33 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954. The point for determination in this petition is whether it is open for the Central Government to revise its own order passed under the same provision in the absence of any new material?

2. Property No. B-X/671 in Ludhiana has been in occupation of the petitioner Satnam Singh and the third respondent Beant Singh. While the petitioner is a non-claimant the third respondent is a claimant. At first the entire property was transferred to the third respondent against his compensation by order of the Regional Settlement Commissioner passed on 4th of August, 1956, it having been held that the property was not capable of division under Rule 30 of the Displaced Persons (Compensation and Rehabilitation) Rules. The property was valued at Rs. 7080/-, the portions in occupation of the petitioner and the third respondent respectively being valued at Rs. 2751/- and Rs. 4329/-. In pursuance of this order, Beant Singh actually got the sale and conveyance deed issued to him. The petitioner, however, applied on 4th of December, 1956, to the Regional Settlement Commissioner for transfer to him of the portion which had been in his

occupation on the ground that the property was divisible. On this a report was sent for and the Assistant Valuation Officer made the valuation of the two portions at Rs. 2751/- and Rs. 4329/-. An offer for transference of the portion in his possession was then made to the petitioner on 22nd of August, 1957 and the payment of 20% of the valued price was made by him on 30th of September 1957. It was only when Beant Singh had applied for a conveyance deed that the subsequent developments regarding the payment of 20% of Rs. 2751/- by Satnam Singh came to light. The petitioner meantime had also filed an appeal to the Chief Settlement Commissioner who by his order of 7th of July, 1959 set aside the order of the Regional Settlement Commissioner transferring the property to Beant Singh as well as the subsequent order of the District and Managing Officer transferring a portion of the property to Satnam Singh. The Chief Settlement Commissioner directed that the question of divisibility should be considered once again.

3. On a personal inspection of the spot it was found by the Assistant Settlement Commissioner in his order of 28th of November, 1959 that the property No. B-X/671 was not divisible and it became transferrable to the third respondent. The sale-deed was accordingly issued in favour of Beant Singh on 30th of November, 1959. Feeling aggrieved the petitioner filed a petition for revision from this order u/s 24 of the Act and Shri Sapra exercising the powers of the Settlement Commissioner passed the order (Annexure A) on 9th of April 1980 wherein it was held that the two portions were clearly divisible and though the order is brief the reasons for this conclusion are clearly indicated. The effort of the third respondent to have this order revised proved abortive and his petition u/s 33 of the Act was eventually dismissed by order of Shri S. Parsada exercising jurisdiction on behalf of the Central Government on 28th of October, 1980 vide Annexure C. This, however, did not deter Beant Singh from making further representations to the Central Government and Shri Shiveshwarkar Joint Secretary to the Government of India, chose to exercise the powers of the Central Government once again in reversing the earlier order of Shri S. Parsada. This time it has been found by him that the property being indivisible should be re-transferred to the third respondent. It is this order of 7th of July 1981 which is sought to be impugned in these proceedings.

4. It has been contended by Mr. Wasu that the Central Government having once exercised its residuary powers u/s 33 of the Displaced Persons (Compensation and Rehabilitation) Act, it is not open to it to reconsider the matter without any fresh material having come to its notice. It may be stated at once that the petitioner and the third respondent have been in occupation of their respective portions of the property for many years and have been living separately. The question of divisibility has been considered by the various authorities and there can be no manner of doubt that the question is one on which two opinions could be and have been held on various occasions. There was no fresh material on which the impugned order of 7th of July, 1961 is based. The same facts and circumstances have been reappraised by the Joint Secretary in coming to the

conclusion that the property is indivisible.

5. The question arises whether the Central Government could in such circumstances revise its previous order u/s 33 which enables it "at any time" to "call for the record of any proceeding under this Act" and to "pass such order in relation thereto as in its opinion the circumstances of the case require and is not inconsistent with any of the provisions contained in this Act or the rules made thereunder." The Joint Secretary relied on the authority of *Maya Ram Sharma v. The Chief Settlement Commissioner* in Civil Writ No. 204-D of 1959 in which *Falshaw J.* (as the Chief Justice then was) held that section 33 is of the widest scope and it permits the Central Government to call for the record of any case any time whether suo motu or at the instance of any of the parties concerned. Reliance was placed in *Maya Ram*'s case on the recent Full Bench decision of this Court in *Jagir Singh and another v. The Settlement Commissioner* (1959) 61 P.L.R. 480 (F.B.), in which it was held that "a tribunal has inherent power to correct its own error, provided, of course, the circumstances are such that the correction of that error is necessary in the interest of justice." In other words, the Central Government could review its own order u/s 33 of the Act in suitable circumstances.

6. That the power of review inheres in any authority which has quasi-judicial functions to perform is a well recognised principle of law. This does not, however, lead to the inference that the power u/s 33 can be exercised repeatedly. A Division Bench of this Court consisting of Chief Justice Bhandari and *Falshaw J.* in *Jamadar Uttam Singh v. Punjab State* AIR 1960 Punj. 230 had occasion to consider this question in relation to section 42 of the *East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948*, which authorises the State Government at any time to call for and examine the record of any case pending before or disposed of by such officer under the Act to satisfy itself as to the legality or propriety of such order. It was observed by Chief Justice Bhandari in his judgment that "even if an administrative tribunal has inherent power to review its own order, it cannot exercise this power arbitrarily and without reason." The Director of Consolidation of Holdings in that case had dismissed an application in limine without even examining the record and it was held by the Bench that the order could not be reviewed. The undesirability of re-opening a question of fact under the powers of review when no fresh reasons exist has been expressed in the case of industrial awards made under the *Industrial Disputes Act* by their Lordships of the Supreme Court in *Burn and Co., Calcutta Vs. Their Employees*, . It was observed by Mr. Justice Venkatarama Ayyar that though the principle of *res-judicata* embodied in section 11 of the CPC is inapplicable to industrial disputes, the underlying principle expressed in the maxim "*interest rei publicae ut sit finis litium*" being founded on sound public policy is of universal application. If a question which has once been settled by an appropriate authority is repudiated again by the same authority the controversy would remain at large for all times to come and the result in the language of Mr. Justice Venkatarama Ayyar would be "far from reconciling themselves to the

award and settling down to work it, either party will treat it as a mere stage in the prosecution of a prolonged struggle, and far from bringing industrial peace, the awards would turn out to be but truces giving the parties breathing time before resuming hostile action with renewed vigour." The same argument could be usefully employed mutatis mutandis in relation to disputes on questions of fact which have been finally settled u/s 33 of the Displaced Persons (Compensation and Rehabilitation) Act. To repeat what I have already emphasised, no fresh material in the present instance was brought to light or has been considered as such in the detailed order of the Joint Secretary but only a different conclusion has been reached with regard to the divisibility of the property in suit on which a sharp conflict of opinion has been undoubtedly expressed by the various tribunals at different stages on the same facts and circumstances. The ruling of the authority in Maya Ram's case has, therefore, to be construed in the light of the authorities more particularly of the Full Bench decision in Jagir Singh v. The Settlement Commissioner (1959) 61 P.L.R. 480 (F.B.) which the learned Judge himself followed in reaching his conclusion. So far as I can see, Maya Ram's case is not an authority for the proposition that on the same facts and circumstances there can be repeated exercise of the right of review u/s 33 of the displaced Persons (Compensation and Rehabilitation) Act.

7. It would be well to observe that in the Displaced Persons (Compensation and Rehabilitation) Act itself the scope of the power of review is indicated. Section 25 empowers a person aggrieved by an order of the Settlement Officer from which no appeal is allowed to make an application for review and in sub-section (2) it is stated that only "clerical or arithmetical mistakes in any order passed by an officer or authority under this Act or errors arising therein from any accidental slip or omission may, at any time, be corrected by such officer or authority or the successor in office of such officer or authority". The machinery of appeals and reviews is provided in the Act and the Central Government u/s 33 is the ultimate repository of residuary powers, but it is to be noted that this power can be exercised only in a manner which is not inconsistent with the provisions of the Act. It seems to me that the power to review its own order by the Central Government on the same facts and circumstances cannot be implied either on general principles of law or the provisions of the Act and the Rules.

8. I would accordingly allow this petition and set aside the order passed by the Joint Secretary on 7th of July, 1961 (Annexure "E"). As there is no representation on behalf of the respondents, I would make no order as to costs of this petition.