

(1958) 10 RAJ CK 0005
In the Rajasthan High Court
Case No : Civil Writ Application No. 39 of 1957

Sunder Das Bhasin

APPELLANT

Vs

The Regional Settlement Commissioner, Jaipur and Others

RESPONDENT

Date of Decision : 03-10-1958

Acts Referred:

Constitution of India, 1950 — Article 14

Displaced Persons (Compensation and Rehabilitation) Rules, 1955 — Rule 65

Citation : AIR 1959 Raj 102 : (1959) RLW 552

Hon'ble Judges : K.L. Bapna, Acting C.J.; I.N. Modi, J

Bench : Division Bench

Advocate : H.G. Thanvi, for the Appellant; R.A. Gupta, Dy. Government Advocate, for the Respondent

Final Decision : Allowed

Judgement

I.N. Modi, J.—This is an application for writ: by Sunder Das Bhasin, under Article 226 of the Constitution, challenging the orders of the Assistant Settlement Officer, Jaipur, dated 28-1-1957, and of the Regional Settlement Commissioner dated 21-2-1957, by which they refused to grant him compensation for certain rural properties left by him in Pakistan while migrating to India, on the ground that he was an allottee of agricultural land within the meaning of Rule 65 of the Displaced Persons (Compensation and Rehabilitation) Rules, 1955 (hereinafter called the Displaced Persons Compensation Rules) made under the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (Act No. XLIV of 1954) (hereinafter called the Displaced Persons Compensation Act).

2. The material facts are these Prior to his settling down in India, the petitioner was admittedly a resident of Village Chak Ramdas, Tehsil Bhulwal, District Sargodha, in what is now called the West Pakistan. It is also admitted that the petitioner owned and possessed (1) one residential house and (2) a shop-cum-residential building in the said village in addition to certain agricultural land. The petitioner filed his claim bearing index No. P/SH3/ 316 before the Additional

Settlement Commissioner, Ministry of Rehabilitation, Delhi, in which he valued the aforesaid rural properties at Rs. 12,000/- and Rs. 8,000/- respectively. The Additional Settlement Commissioner reduced the claim to Rs. 6,675/- and Rs. 6,120/- for both the properties respectively by his order dated 28-3-1955, and verified it accordingly, vide Ex. 1. Thereafter the petitioner preferred an application for grant of compensation to the Settlement Officer, Jaipur, on 31-3-1956. It is important to mention at this stage that the petitioner had been allotted what is called 2 1/4 units of land in lieu of his agricultural land left by him in Pakistan.

By his order dated 28-1-1957, the Assistant Settlement Officer, Jaipur, informed the petitioner that no payment of compensation could be made to him in lieu of his rural claim under Rule 65 of the Displaced Persons Compensation Rules, as he was an allottee of agricultural land. The petitioner went in appeal to the Regional Settlement Commissioner, and the latter by his order dated 21-2-1957, maintained the order of the Assistant Settlement Officer, whereupon the petitioner has come up with his present application to this Court.

3. The main contentions raised by the petitioner in his application are that Rule 65 of the Displaced Persons Compensation Rules, under which the petitioner's claim has been rejected, is not applicable to his case; and, secondly, that, in any case, in considering the applicability of Rule 65, it is the total value of the rural buildings left by the displaced persons in Pakistan that has to be considered, and not the value of each building individually, and that if so considered, the petitioner's claim for compensation cannot be rejected, inasmuch as the total value of the properties left by him in rural area was more than Rs. 10,000/-. It is also contended that Rule 65 is violative of Article 14 of the Constitution.

4. I may state at once that there is no force in the contention of the petitioner that Rule 65 of the Displaced Persons Compensation Rules has no application to his case. That it is obviously applicable will be apparent from the plain language of the Rule, which reads as follows :

"65. Separate compensation for rural building not to be paid in certain cases. (1) Any person to whom four acres or more of agricultural land have been allotted shall not be entitled to receive compensation separately in respect of his verified claim for any rural building the assessed value of which is less than Rs. 20,000/-.

(2) Any person to whom less than four acres of agricultural land have been allotted, shall not be entitled to receive compensation separately in respect of his verified claim for any rural building the assessed value of which is less than Rs. 10,000/-."

Sub-rule (2) is applicable to the petitioner's case, inasmuch as it cannot be disputed that agricultural land being less than four acres in area has been allotted to the petitioner, though the petitioner's contention is that he had not applied for allotment of any land to him. That, however, is neither here nor there, because the factor which determines the applicability of the rule is whether

agricultural land has or has not been allotted to him.

5. This brings us to the main point for determination in the case as to whether the limit of Rs. 10,000/-, which has been mentioned in Sub-rule (2) (we are not directly concerned with Sub-rule (1), though what I say with respect to this part of the Rule cannot but apply to Sub-rule (1) also) has reference to the assessed value of every single rural building owned by the displaced person, or the total value of such buildings possessed by him in any rural area.

In this connection we have been referred at the Bar to the case of Bhagat Ram Soni v. Union of India, which came up for decision before a learned Single Judge of the Punjab High Court in Civil Writ No. 167 of 1955 D/- 24-10-1956, and which later came to be decided by a Division Bench of the same High Court on 11-11-1957, and the decision of the learned Single Judge was set aside, and it was held that the meaning of Rule 65 was that in the case of rural properties the value of each building had to be assessed separately, and where such value was less than Rs. 10,000/-, no claim for compensation was maintainable.

I shall have occasion to say something about this decision later, but before I make a detailed reference to the reasoning of the Division Bench, I propose to examine the Rule myself in relation to its language and certain provisions of the Displaced Persons Compensation Act, and the Rules made thereunder.

6. Section 4 of the Displaced Persons Compensation Act provides that the Central Government shall, not later than 13-6-1955, require all displaced persons having a verified claim to make applications for the payment of compensation. It may also be pointed out here that a displaced person was required to submit his claim to a Registering Officer u/s 5 of the Displaced Persons (Claims) Act, 1950 (Act No. XLIV of 1950) and the word "claim" with respect to any immovable property in any non-urban area in any part of West Pakistan embraced only such class of property as was notified by the Central Government in this behalf in the Official Gazette.

After his claim is verified, the displaced person applies for the payment of compensation, and Section 8 of the Displaced Persons Compensation Act then provides that he shall be paid out of the compensation pool the amount of net compensation determined as being payable to him under Sub-section (3) of Section 7 of the Act, and subject to any rules that may be made under the Act, the Settlement Commissioner should make such payment either in cash, or in Government bonds, or in any of the other modes prescribed in that section.

What is important to note is that the payment of compensation out of the compensation pool is subject to such rules as may be framed by the Government. This brings us to the Displaced Persons Compensation Rules. I have already quoted Rule 65 of these Rules above. The object behind this Rule clearly seems to me to be that no separate compensation for rural buildings is intended or required to be made where the value of such buildings falls below a certain minimum value which is prescribed in the Rule.

In other words, the Legislature seems to have thought that ordinary buildings or buildings up to a certain value are mere adjuncts or appendages to the agricultural land, and, therefore, no separate compensation should be payable for them. This idea is easily understandable. It is in pursuance of some such notion that the Rule provides that, where agricultural land being less than four acres in area has been allotted to a displaced person, he shall not be entitled to claim separate compensation in respect of his verified claim for any rural building the value of which has been assessed at less than Rs. 10,000/-.

Now, this Rule presents no difficulty whatsoever where a displaced person owns only one such building, and it is the value of that building only which has to be taken into consideration. If the value of such building is Rs. 10,000/- or more, the displaced person is certainly entitled to compensation where less than 4 acres of land has been allotted to him under Sub-rule (2) of Rule 65. There may be cases, however, where a person owns more than one property in a rural area, and the value of such properties taken individually is less than Rs. 10,000/-, but taken collectively is Rs. 10,000/- or more.

The present is a case of this kind, and the question is whether under the Rule in question such a displaced person having been allotted less than 4 acres of land is or is not entitled to receive separate compensation in respect of his rural properties. I have given the matter my very earnest and anxious consideration, and, speaking with all respect, I see no reason why a displaced person whose case falls under the last named category should not be entitled to separate compensation under Rule 65. It is true that usually one may have only one rural building and it is easy enough to treat that as an adjunct to his agricultural land, but cases are not inconceivable where a person may have more than one such building.

Let us suppose that in a given case a displaced person has three such buildings, and the value of each of these buildings is somewhere near Rs. 9000/- taken separately, the total amounting to Rs. 27,000/-. According to the interpretation proposed on behalf of the opposite parties, and which has found favour with the Division Bench of the Punjab High Court in Bhagat Ram Soni's case, Civil Writ No. 167 of 1955, such a person would not be entitled to any compensation. On the other hand, if this very person had only one rural property of the value of Rs. 10,000/- or over, he would have been entitled to separate compensation in lieu of it.

I can see no Justice or equity behind such a rule, and in my opinion, so interpreted, it should lead to manifest inequality and injustice. It is this aspect of the case which has caused me the greatest anxiety in interpreting this Rule, and the only just solution of this difficulty seems to me to hold that the phrase "rural building" in this Rule means not only an individual rural building, but on the principle that the singular also includes the plural, the phrase embraces all the rural buildings held by a displaced person in a given case.

Such an interpretation would be in perfect accord with Section 13 of the General Clauses Act (Act No. 10 of 1897), which provides that in all Central Acts and Regulations, unless there is any thing repugnant in the subject or context, words in the singular include the plural and vice versa. It is correct that this general rule is subject to there being nothing repugnant in the subject or context, but nothing has been pointed out to us to indicate that there is anything in the subject or context which militates against the adoption of the general rule.

In the present case, in fact, if the Rule is interpreted in the manner indicated, then it clearly means this that where a person to whom less than 4 acres of agricultural land has been allotted, and he has a verified claim for his rural building or buildings, the assessed value of which is Rs. 10,000/- or more, he shall be entitled to receive separate compensation in respect of such properties. On the other hand, where such a person has a rural building or buildings, the total assessed value of which is less than Rs. 10,000/-, he shall not be entitled to any separate compensation.

The same interpretation would equally hold good in the case of sub-Rule (1) in the sense that where a person to whom four acres or more of agricultural land has been allotted, and he owns a rural building or buildings, the assessed value of which is less than Rs. 20,000/-, and his claim therefore has been verified he shall not be entitled to any separate compensation with respect to them, but where the total assessed value thereof is more than Rs. 20,000/-, he will be entitled to separate compensation with respect to them. Speaking with all respect, I see nothing in the Rules under consideration to indicate that the meaning I am putting on this Rule is wrong. In this connection I am tempted to refer to Rule 18 under Chapter IV, headed "Determination of Compensation", which reads as follows :

"18. Compensation to be determined on the total value of all claims. -- For the purpose of determining the compensation payable to an applicant, the Regional Settlement Commissioner shall, except as otherwise provided in these Rules, add up the assessed value of all claims of the applicant in respect of all kinds of properties, other than agricultural land, left by him in West Pakistan and the compensation shall be assessed on the total value of all such claims."

Generally speaking, this Rule requires that the compensation payable to a displaced person should be based on the assessed value of all the claims of the applicant in respect of all kinds of properties; and must be assessed on the total value of such claims. It is true that this Rule is subject to anything having been otherwise provided in these Rules, but all the same, unless there is an explicit exception provided elsewhere in the Rules. I feel that it would not be right to interpret Rule 65 in the sense that the separate compensation payable for a rural building under Rule 65 requires as a condition precedent, among other things, that the assessed value of each of the rural buildings should be the minima of Rs. 10,000/- or Rs. 20,000/-, as the case may be.

7. The conclusion at which I have arrived, therefore, is briefly this that the expression "rural building", as used in the singular, includes the plural, and, therefore, the correct import of Rule 65(2) is that where a person to whom less than four acres of agricultural land has been allotted, and he has a verified claim for a rural building or rural buildings, the assessed value of which is less than Rs. 10,000/-, he shall not be entitled to receive compensation separately in respect of them, and it must follow that where the assessed value is Rs. 10,000/- or more, he must be held to be entitled to receive compensation separately in respect of them. I hold accordingly.

8. Before concluding this judgment, I wish to say a few words as to the reasoning of the judgment of the Division Bench of the Punjab High Court in Bhagat Ram Soni's case, Civil Writ No. 167 of 1955, already referred to above. That case seems to have been decided on a notification issued by the Central Government under the Dis-placed Persons (Claims) Act (Act No. XLIV of 1950. The language of the notification is quoted in the judgment, and- it seems to me that in the case before me we are not primarily concerned with the notification, but with Rule 65, though it may be conceded that the language of the notification is more or less the same as that of the Rule. The relevant portion of the notification, as quoted in the judgment, is as follows:

"(1) Any immovable property situated within an urban area in West Pakistan,

(2) any immovable property in West Pakistan, which forms part of the assets of an industrial undertaking and is situated in any area other than an urban area,

(3) any other immovable property in West Pakistan comprising of a building situated in any area other than an urban area; Provided that where a claimant has been allotted any agricultural land in India and that

(a) where the agricultural land so allotted exceeds four acres, the value of the building in respect of which the claim is made shall not according to the present estimated cost of construction, be less than Rs. 20,000/-.

(b) where the agricultural land so allotted does not exceed four acres, the value of the building in respect of which the claim is made shall not, according to the present estimated cost of construction, be less than Rs. 10,000/.

Explanation I. In this rule, the expression "building" includes :

(a) any structure in the immediate vicinity of a building without which the building cannot be conveniently occupied or enjoyed;

(b) any garden, ground, enclosure and outhouses, appurtenant to such building."

9. Much reliance seems to have been placed in this judgment upon the Explanation to the notification. The learned Judges were apparently greatly impressed by the argument that the Explanation appended to the notification indicated that what it required was that each separate building in non-urban area is to be separately valued, and only where the value of a single building including

its necessary appurtenants comes upto Rs. 10,000/- or more it is to be considered admissible for the purposes of a claim for compensation.

It was also held that the adoption of a contrary meaning, namely, that the word "building" means all buildings or property held by a displaced person would render the Explanation redundant. With profound respect, I fail to see the force of this reasoning. The Explanation to my mind was merely added to the notification to clarify the meaning of the word "building", which, without the Explanation, might have been capable of being construed as exclusive of a garden or open ground or enclosure appurtenant thereto.

It would, in my opinion, be straining the language of the Explanation unnecessarily to hold that because the particular Explanation was appended to the notification, the word "building" used in the body of the notification was used with reference to each single building and not to the plurality of such buildings held by a displaced person. The learned Judges also seem to have thought that if the word "building" was to be read to mean all buildings belonging to the claimant, they would be required to add something to the language of the rule, which they were not entitled to do.

With deep respect again, I am unable to see the force of this criticism, for the simple reason that if the word "building" is to be interpreted as meaning "buildings" also, that does not amount to any addition to the rule, and is merely tantamount to its interpretation in accordance with the general rule enacted in the General Clauses Act, which is applicable to all Central Acts and Regulations,

If I might repeat once again, the judgment of the Division Bench affords no answer to the difficulty envisaged in the foregoing part of my judgment, namely, that there seems to me no Justice whatsoever in the rule that where less than four acres of land has been allotted to a displaced person in India and he owned only one rural property of the value of Rs. 10,000/, in his former country separate compensation must be paid to him; but if he held as many as three properties each of the value of a little less than Rs. 10,000/- he is not entitled to any such compensation.

In my humble judgment such an interpretation would be entirely repugnant to common sense and common Justice, and I am unable to accept it as correct. I should in this connection, also like to add that assuming that the Rule under interpretation is ambiguous and not as clear as it should be, this Court would be justified in placing an interpretation on it which would advance the remedy rather than retard it.

Thus, Finmore J. in *Holmes v. Bradfield Rural Dist. Council* (1949) 2 KB 1 observed that.

"The mere fact that the results of a statute may be unjust or absurd does not entitle this Court to refuse to give it effect, but if there are two different interpretations of the words in an Act, the Court will adopt that which is just,

reasonable and sensible rather than that which is none of those things".

Again, in *Simms v. Registrar of Probates* (1900) AC 323 Lord Hobhouse ruled that

"Where there are two meanings, each adequately satisfying the meaning (of a statute), and great harshness is produced by one of them, that has a legitimate influence in inclining the mind to the other.....it is more probable that the Legislature should have used the word.....in that interpretation which least offends our sense of justice."

Shortly put, the rule is that where the language of an Act is clear and explicit the Court must give effect to it, regardless of the consequences thereof; but where the words are susceptible to an ambiguity, and two interpretations are possible, and the one leads to injustice and the other avoids it, then the Court would be justified in choosing the interpretation which avoids the anomaly or injustice.

10. In this view of the matter I hold that the expression "rural building" in Rule 65(2) of the Displaced Persons Compensation Rules includes the plural, and in order to determine whether a person is entitled under that Rule to separate compensation for the rural buildings held by him, what has to be seen is not the assessed value of each of the rural buildings taken separately, but the total value of such buildings, and where it amounts to Rs. 10,000/- or over, the displaced person concerned is entitled to receive separate compensation in respect of it.

11. On the aforesaid interpretation of Rule 65, I have no hesitation in saying that it is not open to any attack on the ground of inequality or unequal protection within the mischief of Article 14 of the Constitution. It is far too well-established to admit of any doubt or dispute at this date that Article 14 permits reasonable classification, and to my mind there is nothing objectionable, if the Legislature in its wisdom thought of classifying owners of buildings properties in rural areas (as contradistinguished from those in urban areas), in one category and enacted that they will be entitled to separate compensation with respect to such properties, only if the assessed value of such properties amounted to certain minimum value depending upon the quantity of agricultural land already allotted to them in this country, and not otherwise. I am satisfied that within the limits prescribed in the Rule, all persons would fall to be treated alike, and, therefore, I am clearly of the view that this Rule cannot be struck down as infringing Article 14 on the interpretation which commends itself to me as being the correct one.

12. The result is that I would allow this application, set aside the orders of the Assistant Settlement Officer, Jaipur, and the Regional Settlement Commissioner, Jaipur, dated 28-1-1957 and 21-2-1957, respectively, as founded on an incorrect interpretation of Rule 65, and direct that the petitioner shall be paid compensation to which he is entitled under the Displaced Persons Compensation Rules, for the rural properties held by him, and the value of which has been collectively assessed at more than Rs. 10,000/-. Having regard to all the circumstances of the case, I would, however, leave both parties to shoulder their own costs in this Court.

K.L. Bapna, Ag. C.J.

13. I agree.