PETITIONER:
MAKHAN LAL MALHOTRA AND OTHERS

Vs.

RESPONDENT:
THE UNION OF INDIA

DATE OF JUDGMENT:
27/10/1960

BENCH:
KAPUR, J.L.
BENCH:
KAPUR, J.L.
SINHA, BHUVNESHWAR P.(CJ)
GAJENDRAGADKAR, P.B.
SUBBARAO, K.
WANCHOO, K.N.

CITATION:
1961 AIR 392 1961 SCR (2) 120
CITATOR INFO :
R 1963 SC 181 (6)
D 1978 SC 747 (32)
R 1978 SC 771 (65)

ACT:
Evacuee Property-Rural building-Claim for compensation-Classification-Validity of rules-Displaced Persons (Claims) Supplementary Act, 1954 (12 of 1954), r. 5-Displaced Persons (Compensation and Rehabilitation) Act, 1954 (44 of 1954), r. 65 Constitution of India, Arts. 14, 31(5)(b)(iii).

HEADNOTE:
The petitioners who were displaced persons from West Pakistan put forward certain claims in regard to village houses which they had left there, but which were rejected by the Rehabilitation authorities. The claims were for amounts above Rs. 20,000 in the case of some of the petitioners and above Rs. 10,000 in the case of the others. By r. 5 framed under the Displaced Persons (Claims) Supplementary Act, 1954, claims could be verified provided, inter alia, that where a claimant had been allotted any agricultural land in India and such land so allotted exceeded four acres, the value of the building in respect of which the claim was made shall not be less than Rs. 20,000 and where it did not exceed four acres the claim made was not less than Rs. 10,000 Rule 65 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954, provided that any person to whom more than four acres of agricultural land had 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 was less than Rs. 20,000, and any person allotted four acres or less was not entitled to receive compensation where the value was less than Rs. 10,000 The petitioners challenged the validity of the aforesaid rules as being discriminatory and thereby contravening Art. 14 of the Constitution of India on the grounds that the object of the various Acts and the rules made thereunder was to rehabilitate displaced persons but by the rules, classifications had been made with reference to

houses in rural areas which were discriminatory as neither the classes were based on intelligible differentia nor was there a rational nexus between that differentia and the object sought to be achieved. It was found that the impugned rules were made in pursuance of an Inter-Dominion Agreement between the two Governments with regard to evaluation of evacuee property, which had received recognition in Art. 31(5) (b)(iii) of the Constitution.
Held, that the impugned rules afforded a reasonable justification for the classification and did not contravene Art. 14 of the Constitution.
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JUDGMENT:
ORIGINAL JURISDICTION: Petition No. 44 of 1958.
Petition under Art. 32 of the Constitution of India for enforcement of Fundamental Rights.
Naunit Lal and Gopal Singh, for the petitioners.
H. N. Sanyal, Additional Solicitor-General of India, N. S. Bindra, K. R. Choudhri and R. H. Dhebar, for the respondent.
1960. October 27. The Judgment of the Court was delivered by
KAPUPR. J.-The petitioners have moved this Court under Art. 32 of the Constitution for a writ of mandamus against the respondent to verify the claims put forward by the petitioners and to grant compensation in respect thereof; but there is little merit to commend the acceptance of the petition.
The petitioners are displaced persons from West Punjab which is now known as West Pakistan and have taken up their residences in different parts of India. They put forward certain claims in regard to village houses which they had left in West Pakistan and which were situate in different villages. The petitioners have in their petition set out their respective claims which were rejected by the Rehabilitation authorities. It is unnecessary to give details of the properties in the various villages in regard to which claims were made. It is sufficient to say that the claims were put forward and they were for amounts above Rs. 20,000 in the case of petitioners Nos. 1 and 2 and above Rs. 10,000 in the case of petitioners Nos. 3
The petitioners challenge the vires of two rules--Rule 5 under the Displaced Persons (Claims) Supplementary Act, 1954, (Act 12 of 1954) and r. 65 of the Rules made under the Displaced Persons (Compensation and Rehabilitation Act), Act 44 of 1954. The challenge is on the ground of violation of Art. 14 of the Constitution. It is necessary at this stage to set out the various Acts and regulations which were passed in regard to displaced persons dealing with
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verification of their claims and the giving of compensation to them.
On April 1, 1948, the East Punjab Refugees (Registration of Claims) Act, 1948, East Punjab Act 8 of 1948, was passed and this was followed by the East Punjab Refugees (Registration of Land Claims) Act 12 of 1948. In the latter Act " land " was defined in s. 2(b) to mean
" land which is not occupied as the site of any building in a town or village and is occupied or let for agricultural purposes or for purposes subservient to agriculture or for pasture and includes-
(i) the sites of buildings and other structures on such land;".

Under s. 2(a) " claim " was defined as
" a statement of loss or damage suffered by a refugee since the first day of March 1947, in respect of his land within the territory now comprised in the Province of (Punjab in Pakistan), North West Frontier Province, Sind or Baluchistan, or in any State adjac. ent to the aforesaid Provinces and acceding to Pakistan ".
Section 4(1) of that Act made provision for submission for registration of claims in respect of land abandoned by a refugee.
On November 19, 1949, East Punjab Displaced Persons (Land Settlement Act) 1949, East Punjab Act 36 of 1949, was passed. By s. 2(b) of this Act the word " allottee " was defined and by s. 2(d) " land " was defined. This definition which was slightly different from the definition in the East, Punjab Act (Act 12 of 1948) was as follows:-
S. 2(d). " " Land " means land which is not urban land and is not occupied as the site of any building in a town or village and is occupied or let for agricultural purposes or for purposes subservient to agriculture or for pasture and includes-
(i) the sites of buildings and other structures on such land;".
On May 18,1950, another Act, the Displaced Persons (Claims) Act 44 of 1950, was passed by the Central Legislature. In this Act " claim " was defined in
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s. 2(a) as " the assertion of a right to the ownership of, or to any interest in-
(ii) such class of property in any part of West Pakistan other than in any urban area as may be notified by the Central Government in this behalf in the Official Gazette;".
This Act was in force for two years and then lapsed. Under s. 2(a)(ii) the Central Government issued a notification on May 27, 1950, specifying the property in respect of which claims might be submitted. The properties were:-
(1) Any immoveable property in West Pakistan which forms part of the assets of an industrial undertaking and is situate in an area other than an urban area.
(2) Any other immoveable property in West Pakistan comprising of a building situated in an area, other than an urban area, the estimated cost of construction of which at present prevailing rates is not less than Rs. 20,000.
(3) Any agricultural land in any part of West Punjab ".
This shows that claims could only be submitted in regard to building in a rural area which was valued at not less than Rs. 20,000 and there was no such restriction in regard to urban area. This notification was amended by a notification dated September 13, 1950. Clause (2) of the previous notification was substituted by a new clause:
" (2) Any other immoveable property in West Pakistan comprising of a building situated in an area other than an urban area;
provided that where the person making the claim hag been allotted any agricultural land in India
(a) where the gricultural land so allotted exceeds 4 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 is 4 acres or less, the value of the building in respect of which the claim is made shall not, according to the
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present estimated cost of construction, be less than Rs. 10,000.

Explanation 1.....
Explanation 11. For the purpose of this clause a person shall be deemed to have been allotted agricultural land in India if he is allotted such land in any manner whatsoever whether on temporary or quasipermanent basis."
On March 23, 1954, the Displaced Persons (Claims) Supplementary Act, 1954, Act 12 of 1954, was passed and a. 12 provided for the making of rules. Rule 5 was made in the following terms:-
" R. 5. The classes of property in respect of which claims may be verified under these rules shall be the same as under the principal Act and the rules made thereunder, that is to say
(1) any immoveable property situated within an urban area in West Pakistan;
(2) any immoveable 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 immoveable 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 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 II is in the same terms as in the notification of September 13, 1950.
On October 9, 1954, the Displaced Persons (Compensation and Rehabilitation) Act 44 of 1954 (to be hereinafter termed Act 44 of 1954) was enacted by Parliament. Section 2(a) defines compensation pool
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which is constituted under s. 14. Section 2(e) defines " verified claim " as follows :
" " Verified claim " means any claim registered under the Displaced Persons (Claims) Act, 1950 (44 of 1950) in respect of which a final order has been passed under that Act or under the Displaced Persons (Claims) Supplementary Act, 1954, but does not include
Section 4 provided for application for payment of compensation. Section 7 for the determination of the amount of compensation and s. 40 for the making of rules.
Rules were made under this Act by a notification No. S. R. O. 1363, dated May 21, 1955. Rule 2(h) defines " urban area " and a. 2(f) " rural area " which means area which is not an urban area Rule 16 provides for the scale of compensation which is set out in appendix 8 or 9. Under r. 18 compensation was to be determined on the total value of all claims which included all kinds of properties other than agricultural land left by claimants in West Pakistan. Rule 44 deals with allotment of acquired evacuee houses in rural areas in lieu of compensation. Under sub-s. (3) of this rule houses in rural areas were graded and under r. 47 payment of compensation was to be made subject to r. 65. Rule 57 provided for allotment of houses in addition to agricultural land. This rule provided:
R. 57. " A displaced person having a verified claim in respect of agricultural land who has settled in a rural area and to whom agricultural land has been allotted a house in

addition to such land in accordance with the following scale-
(1) Claimants allotted land up to Ten Standard acres Grade (H),
(2) Claimants allotted and exceeding Ten Standard acres but not exceeding fifty standard acres ..... Grade (G)
provided that if such person holds a verified claim in respect of any rural building and that claim has been satisfied wholly or partially before the allotment of such land the provisions of rule 65 shall not be
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applicable in his case but he shall not be entitled to the allotment of a house or a site and building grant in lieu thereof.
Explanation 1-Where no house is available in the same village, an allottee may be granted:
(a) if he has been allotted agricultural land not exceeding ten standard acres, a site measuring 400 square yards and a building grant of Rs. 400; and
(b) if he has been allotted agricultural land exceeding ten standard acres but not exceeding fifty standard acres a site measuring 600 square yards and a building grant of Rs. 600.
Explanation II-The reference to grades in this rule is to the grades of houses specified in rule 44."
Rule 61 deals with refusal of acceptance of allotment and is as under:-
Rule 61. " Where any person refuses to accept the allotment of any agricultural land offered to him the claim for compensation of the allottee shall be deemed to have been satisfied to the extent of the value of the allotted land and such land shall be available for allotment to any other claimant."
The impugned rule 65 provided:-
" (1) Any person to whom more 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. 20,000.
(2) Any person to whom four acres or less 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 ".
It was argued on behalf of the petitioners that the object of the various Acts and the rules made thereunder was to rehabilitate displaced persons but by the rules a classification had been made which was discriminatory as neither the classes were based on any intelligible differentia nor was there a rational nexus between that differentia and the object sought to be achieved. The classification, according to the argument was: (1) between urban population and rural
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population; (2) between refugees from rural areas who owned lands and those who owned only rural houses and (3) between those who had quasi-permanent and permanent allotments.
In order to determine the question raised it is necessary to trace in chronological order the various steps taken to rehabilitate the millions of persons who were forced to migrate into India leaving behind properties worth varyingly large amounts. When displaced persons came from West Punjab and other provinces of India which became Pakistan, the authorities allotted to every agricultural family certain area of agricultural land the object being (1) to give temporary shelter to the displaced persons and (2) to

preserve whatever crops bad been left by persons who went away to Pakistan.

At an Inter-Dominion Conference between the Governments of India and Pakistan held at Karachi between January 10 and 13, 1949, a permanent Inter-Dominion Commission was set up to consider the question of administration, sale and transfer of evacuee property in both the dominions. In pursuance of this decision the question in respect of shops and houses in rural areas was considered by the Commission at New Delhi on March 11 and 13, 1949. It was recommended at this meeting that buildings in rural areas of the value of Rs. 20,000 or more should be considered to be substantial buildings and the buildings which were of lesser value than that were to be treated as appendages of agricultural land and as such were to be treated as " agricultural properties " : vide the minutes of that meeting at p. 242 of a compilation known as " Documents concerning Evacuee Property" of the years 1947-51. Chapter IX of the Land Resettlement Manual for Displaced Persons by Mr. Tarlok Singh, a book of undoubted authenticity and value, deals with allotment of rural houses and sites. Rule 3 shows how the equitable distribution of houses was to be effected. In order to ensure fairness the size of the land allotment made to a displaced person and the type of house abandoned by him were considered to be major factors. For each standard acre allotted

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one mark was to be given and subject to a maximum of 20 marks houses abandoned in West Punjab were valued at the rate of one mark for each one thousand of the value of the house and houses above the value of Rs. 20,000 were excluded for allotment as they were to be dealt with according to the terms of an earlier agreement between India and Pakistan. In each village after their relative rights had been valued, the allottees could choose houses according to the village list. In appendix 11 of that book is set out the summary of principles of allotment of rural evacuee houses. Evacuee houses of kamins (menial servants), artisans, etc. were to be given to displaced artisans and evacuee shops to evacuee shopkeepers. Rule 3 provided that temporary allotment did not create any rights of allotment on quasi-permanent basis but subject to this, allottees were not to be disturbed if they are otherwise qualified for similar accommodation in the villages. Elaborate rules are given in that Chapter as to how these allotments were to be made including partition of houses where two or more families could be accommodated. Rule 20 is important and may be quoted :-

Rule 20. "Where necessary, evacuee abadi sites should be extended to suit the layouts of model villages. The Additional Deputy Commissioner should endeavour to persuade the allottees to surrender a part of their holdings in exchange for land out of the common pool or out of areas excluded from allotment ".

Rule 21 gave effect to another Inter-Dominion agreement and therefore houses of the value of Rs. 20,000 or more which were liable to exchange or sale were

excluded from allotment.

Thus according to these instructions contained in that book every effort was made to allot houses to persons who were allotted lands and in this manner compensation was sought to be given to displaced persons.

By rule 97 made under Central Act 44 of 1954, rehabilitation grants to allottees of agricultural land of less than 4 acres were to be given as follows:-

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R. 97. " Any person who has been allotted four acres or less of agricultural land and whose claim in respect of rural buildings left in West Pakistan has, by virtue of such allotment, been totally rejected may be given a rehabilitation great:

Provided that-

(a) he has not accepted such allotment of the agricultural land or such allotment has been cancelled ;

(b) he does not hold a verified claim in respect of any other kind of property, that is to say, for any substantial rural building and

Provided further that where any such person is given a rehabilitation grant under rule 97-A, he shall not be given a rehabilitation grant under this Rule 97-A provided:-

" Any person who has been allotted two standard acres or less of agricultural land in the State of Punjab or Patiala and East Punjab States Union under any notification specified in Section 10 of the Act may be given a rehabilitation grant at the rate of Rs. 450 per standard acre of the area allotted to him.

Provided that-

(a) he has not accepted such allotment of the agricultural land or such allotment has been cancelled;

(b) he does not hold a verified claim in respect ,of any other kind of property, that is to say, for any urban property or for any substantial rural building ".

By Rule 57 which has already been quoted, houses of all grades were allotted to persons who were allotted certain areas of land and provision was made for building sites and payment of building grants where no houses were available in the villages. These rules made under Act 44 of 1954 and those set out in Land Resettlement Manual by Mr. Tarlok Singh show that every one was allotted or was given building sites and money for the purpose of houses in rural areas.

The rule in regard to filing of claims for houses valued at Rs. 10,000 or more where allotment of land was up to 4 acres and Rs. 20,000 or more where allotment of land was in excess of 4 acres was also in pursuance of an Inter-Dominion Agreement between the

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two Governments which has received recognition in Art. 31(5)(b)(iii). Thus it appears that rules made in regard to fixing of the value of the houses for claim of Rs. 10,000 in one case and Rs. 20,000 in the other was a policy decision arising out of an agreement at a meeting of the Inter-Dominion Commission with regard to evaluation of evacuee property. Rules which have been framed are only restatement of what was contained in the notifications of May 27, 1950, and September 13, 1950, which themselves were the result of decisions arrived at the meetings of the Inter-Dominion Commission.

Under Art. 14 of the Constitution the State shall not deny to any person equality before the law or the equal protection of the laws within the territories of India. By judicial decisions the doctrine of classification has been incorporated in the equality clause, but the classification cannot be arbitrary but must be based upon differences pertinent to the subject in respect of the purpose for which it is made. There must be a reasonable nexus between the classification and the object sought to be achieved. The object of the impugned provisions, read with the relevant Acts, is to rehabilitate the evacuees on an equitable basis. To implement the scheme of rehabilitation the evacuee law

has classified evacuees under different categories. Broadly speaking, the main division is between persons who were residing in Pakistan in rural areas with agriculture as their avocation and those persons who were residing in urban areas in Pakistan. Persons from rural areas have been divided into two categories, namely, persons who owned agricultural land with a building as part of the holding and persons who held agricultural land with an independent building which cannot be described as part of the holding. Separate treatment is given to rural areas and urban areas. In the rural areas, land with a building is treated as one unit, but when the building is of a substantial value it is put in a different category and separately compensated for. This classification has certainly a reasonable relation to the object of rehabilitation, for it cannot be denied that the three categories require separate treatments for the purpose of
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resettlement on new lands and for the payment of compensation.
It cannot be seriously disputed that a house in a rural area and that in an urban area cannot be treated alike, but the real grievance of the petitioners is in respect of the distinction between houses in rural areas. As to what is a substantial building has to be ascertained and a line must be drawn somewhere. Here the question arises whether the classification has been made arbitrarily and without any sound basis. It may perhaps appear odd to say that a property worth Rs. 9,999 in one case or a property worth Rs. 19,999 in another would be a building of unsubstantial character or that the extent of the land, namely, four acres in one case and above four acres in another have any relevant bearing on the substantiality of the building. This perhaps may lend support to the plea of discrimination but an unprecedented situation bad to be faced and provision made for the rehabilitation of such a vast multitude of humanity who had been uprooted from their homes. This necessitated an equitable treatment for them all and an equal distribution of the available evacuee properties left in India. In order to lighten the heavy burden undertaken an Inter-Dominion adjustment became necessary and the two Dominions entered into an agreement presumably based upon the relevant circumstances in regard to the treatment of rural house property. The reasonableness of the classification must therefore be judged after taking these surrounding circumstances and the conditions then prevailing into consideration. The basis of the classification must be judged by the fact that compensation is given in every case. Rules 57 and 97-A framed under Act 44 of 1954 afford a reasonable justification for the classification.
Under the Rules every displaced person who has settled in a rural area is allotted a house in addition to such land; if no house is available in the same village the allottee is given a site and a building grant. But where his claim for a house is rejected he is given
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a rehabilitation grant. But under the impugned provisions separate compensation is given for a rural house of value above a prescribed limit. It will, therefore, be seen that the classification is not arbitrary but is based upon sound principles and on equitable considerations. A distinction between a rural house which is part of a holding and one which is not a part of a holding but an independent unit is made and different principles of rehabilitation are applied to meet different situations. The hardship which the

division into two categories must cause is diluted by providing to the claimant falling- on the wrong side of the line a rural house or a rehabilitation grant.

The attack on the ground of want of intelligible differentia must fail. Appendix XI of Land Resettlement Manual by Mr. Tarlok Singh illustrates the principles of allotment of rural evacuee houses and the elaborate system of marking which was done in order to either give houses to allottees of land or to give them building sites with subsidy to build houses and finally in r. 97 and r. 97-A of the rules made under Act 44 of 1954 detailed provisions were made for rehabilitation grants including grants to those allottees of agricultural land whose claim for rural property had been rejected or who had refused to take land allotted to them. Similarly r. 57 which has been quoted above shows that a provision has been made for giving sites as well as subsidy for building houses. It cannot be said therefore that the rules suffer from any infirmity on the ground of discrimination.

In the result this petition fails and is dismissed with costs of.

Petition dismissed.

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