

A STATE OF RAJASTHAN AND ANR.

v.

SHRI PURKHA RAM AND ANR.

FEBRUARY 23, 1994

B [K. RAMASWAMY AND N. VENKATACHALA, JJ.]

Rajasthan Colonisation Act, 1954: R.C. (R.C.P. Government Land Allotment and Sale) Rules, 1967: Rules 8(1) (a), 8(1)(b) and 23.

C *Rajasthan Colonisation (Allotment and sale of Government Land in the Rajasthan Canal Colony Area) Rules, 1975 : Rule 4 Displaced persons of Bhakhra Dam—Rehabilitation of—Allotment of land—Payment of land by allottees—Government whether has power to re-open the price.*

D Respondents, displaced persons under the Bhakra Nangal Dam, were rehabilitated in the Rajasthan Canal Produce Area. Each of them was allotted 50 Bighas of land. Under the provisions of Rajasthan Colonisation Act, 1954 read with R.C. (R.C.P. Government Land Allotment and Sale) Rules 1967, the allotment of land was on permanent basis and was to be deemed to have been made under the 1967 Rules. Further, the allottees were enjoined to pay the price of the land at the rates provided for in Rule 23.

F Respondents made payment as contemplated under Rule 23. However, subsequently notices were issued to them under Rule 4 of the Rajasthan Colonisation (Allotment and Sale of Government Land in the Rajasthan Canal Colony Area) Rules, 1975 demanding payment at the prevailing prices for 25 Bighas and four times the price fixed for 25 Bighas lands in excess of 25 Bighas. They challenged the demands before the High Court which quashed the notices holding that the Government had no power to re-open the price.

G In appeals to this Court it was contended on behalf of the State that since Rule 8(1)(a) of the 1967 Rules expressly postulated that subject to special conditions and terms of the allotment 'to be made' would apply to the persons covered by Rule 8(1)(b), the respondents were bound to pay H the price of the land as demanded.

Dismissing the appeals, this Court

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HELD: 1. The High Court is right in quashing the demands. A reading of the Rule 8(1) (a) of 1967 Rules does not warrant an interpretation that the displaced persons under Bhakra Nangal Project who come under Rule 8(1) (b) are also bound by the special terms and conditions enumerated in Rule 8(1) (a) and that, therefore, they are bound to pay the demands as issued in the impugned notice. [135-D-H]

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2. Rule 8(1) (a) would prospectively apply independently to the future allottees, be they displaced persons or any person applying for allotment. They alone would be bound by the terms and conditions. If the Rules making authority intended the operation of Rule 8(1) (a) to apply to the persons covered by Rule 8(1) (b), suitable language would have been employed in Rule 8(1) (b) to make them liable to the special terms and conditions. From Rule 8(1) (b) itself, no such indication is discernible. Unfortunately, no such language was there even to impliedly so suggest. On the other hand, it is said expressly that the allottees shall be liable to the payment of price of such land at the rates provided for in Rule 23. Thereby, their liability is only with reference to the rates fixed under Rule 23. Since the respondents have paid the price fixed under Rule 23, there is no power for the Government to revise the price already fixed and paid. [135-E-G]

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CIVIL APPELLATE JURISDICTION: Civil Appeal No. 1559 of 1988.

From the Judgment and Order dated 11.3.86 of the Rajasthan High Court in D.B.Civil Spl. A. No. 572 of 1986.

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With

Civil Appeal No. 1560 of 1988.

From the judgment and Order dated 11.3.86 of the Rajasthan High Court in D.B. Civil Spl. A. No. 660 of 1986.

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With

Civil Appeal No. 1783-1789 of 1994.

From the Judgment and Order dated 9.9.86, 31.10.86, 24.3.87, 5.1.87,

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A 19.86 & 31.10.86 of the Rajasthan High Court in D.B.C.Spl.A.Nos.941 & 981/86, 1159/86, 1179/86, 1278, 934, 1177 of 1986.

B.D. Sharma and G. Prakash for the Appellants.

S.B. Sanyal, S.K. Bisaria and Surya Kant for the Respondents.

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The following Order of the Court was delivered:

Leave granted in Special Leave Petitions.

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These appeals by special leave arise from the judgment of the Division Bench of the High Court of Rajasthan in Civil Special Appeal No. 660 of 1986 and batch dated March 11, 1986. The facts which lie in a short compass, are stated as under:

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The displaced persons under the Bhakra Nangal Dam were rehabilitated in Rajasthan Canal Produce area now known as Indira Gandhi Nehar Project in Rajasthan. From 1961 to 1967, various persons have been rehabilitated thereof. 50 Bighas of land was allotted to each respondent in the appeal by proceedings dated May 16, 1961. Thereafter proceedings were issued by the Deputy Commissioner, Colonisation, Rajasthan on December 28, 1965 that in compliance of the Commissioner, Colonisation order of the above date, the allotment to the landlords farmers of the Bhakra Project in the R.C.P. Area was on the terms and conditions mentioned thereunder. Condition Nos.1 and 2 are relevant for the purpose of these cases:

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"Condition no.1 - That the allottee will be bound by the provisions of Rajasthan Colonisation Act, 1954 and the rules thereunder as amended from time to in future.

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Condition no. 2 - That the value of the land will be fixed by the State Government and it will be the responsibility of the allottee to make timely 'payment and the allottee will also be responsible to pay in time the instalment of payment fixed by the State Government."

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Thereafter R.C. (R.C.P. Government Land Allotment and Sale) Rules, 1967 for short the Rules were made exercising the power under Rule 28 of the Rajasthan Colonisation Act, 1954 (Act No. 27 of 1954), for short the Act. Rule 8(1)(b) of the Rules, provides thus :

"8(1)(b) All allotments of Government land made in the Rajasthan Cannal Project area before the commencement of these rules on a permanent basis, irrespective of the area allotted to each allottee, shall be deemed to have been made under these rules and the allottee shall be liable to the payment of price of such land at the rates provided for in rule 23."

Rule 23 prescribes the classification of the soil, price per bighas and price per Murabba of 25 Bighas which is described as a unit as under:

"23. Scales of price to be charged for different classes of land and the mode of payment - (1) Following shall be scales of price which may be charged for Government lands allotted under these rules for which various soil classes have been sanctioned by the Collector as defined in the Act."

Sl. No.	Class of soil	Price per Bighas	Price per Murabba of 25 Bighas
1.	Nali Canal	Rs. 800.00	Rs. 20,000.00
2.	Light Loam	Rs. 675.00	Rs. 16,875.00
3.	Sandy Loam	Rs. 500.00	Rs. 12,500.00
4.	Uncommand Lands	Rs. 150.00	Rs. 3,750.00

2. No. betterment fee shall be charged on Government lands allotted at above prices.

2. In case land allotted as uncommand becomes command at any subsequent time, the price payable will be (the market price prevalent at the time) for command land and the allottee shall be liable to pay the deficiency in price occasioned thereby and in case any land sold as command is declared as uncommand by the Irrigation Department before its price is fully paid up the amount paid towards the payment of the price thereof as command land, will be adjusted towards the price and instalments payable for it as uncommand land and any amount paid in excess thereof will be refunded to the allottee.

- A 4. Allottees other than Scheduled Castes and Scheduled Tribes shall pay 12½% of the price and those belonging to the Scheduled Castes/Tribes shall pay 5% of the price at the time of allotment and the residuary amount shall be paid in ten equal instalments as indicated below in respect each square of 25 bighas commencing from the year in which water is released for the irrigation of the allotted land."
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- C A reading of the said provisions of the Act and Rule 8(1)(b) clearly indicates that the effect of the allotment made in favour of the displaced persons from Bhakra Nangal Project area and rehabilitated in Rajasthan Canal Project area was that the allotment was on permanent basis irrespective of the area allotted to each of the allottees. They shall be deemed to have been allotted under the Rules. The allottee was enjoined to pay the price of the land at the rate provided in Rule 23. It is an admitted case that the respondents did make payment as contemplated under Rule 23.
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- E But in the year 1984 steps have been taken purporting to be under Rajasthan Colonisation (Allotment) and Sale of Government Land in the Rajasthan Canal Colony Area Rules, 1975 and in particular Rule 4 thereof, directing the respondents to pay prevailing current price for 25 bighas and four times the price fixed for 25 bighas, lands in excess of 25 bighas. The notice in that behalf was issued on June 15, 1984. Calling that Rule in question the respondents filed the writ petitions in the High Court. Persons similarly situated also filed several writ petitions. As stated earlier, the High Court held that the Government has no power to reopen the price,
- F which was already settled by exercising the power under Rule 4 of 1975 Rules. Accordingly, the demands were quashed. Thus these appeals by special leave.

- G Shri B.D. Sharma, learned counsel appearing for the State contended that when the allotment was deemed to be under the Rules, when Rule 8(1)(a) of 1967 Rules expressly postulates that subject to special conditions and terms of the allotment 'to be made' would apply to the persons covered by Rule 8(1)(b). Therefore, the respondents are liable to pay the present current price for 25 bighas of land and 4 times price fixed for the excess
- H lands. We find no force in the contention. Rule 8(1)(a) reads thus:

"S(1)(a) Subject to the provisions contained in the Act, these rules and the terms and conditions specified in the Rajasthan Colonisation (General Colony) Conditions 1955, allotments of Government lands under these rules shall be on a permanent basis, the allottees being eligible ultimately to the conferment of Khatedari rights subject, however, to special terms and conditions which might hereafter be imposed by the Government."

A reading of this rule would clearly show that its operation is prospective subject to the provisions contained in the Act, rules and special terms and conditions specified in the Rajasthan Colonisation (General Colony) Conditions 1955, allotments of Government lands under these Rules shall be on permanent basis, the allottees would be eligible ultimately to the conferment of the Khatedari rights subject, however, to special terms and conditions which might hereafter be imposed by the Government would be applicable and the allottees are bound by them. On the word 'hereafter', emphasis was laid by Shri B.D. Sharma to contend that the allottees the displaced persons under Bhakra Nagal Project who would come under Rule 8(1)(b) are also bound by the special terms and conditions enumerated in Rule S(1)(a) and that, therefore, they are bound to pay the demands as issued in the impugned notice. A reading of the Rule does not warrant such an interpretation. Rule 8(1)(a) would prospectively apply independently to the future allottees, be they displaced persons or any person applying for allotment. They alone would be bound by the terms and conditions. If the Rule making authority intended the operation of Rule 8(1)(a) to apply to the persons covered by Rule 8(1)(b), suitable language would have been employed in Rule 8(1)(b) to make them liable to the special terms and conditions. We find no such language. From Rule 8(1)(b) itself, no such indication is discernible. Unfortunately, no such language was there even to impliedly so suggest. On the other hand, it is said expressly that "the allottee shall be liable to the payment of price of such land at the rates provided for in rule 23". Thereby, their liability is only with reference to the rates fixed under Rule 23. As admittedly, the respondents have paid the price fixed under Rule 23, there is no power for the Government to revise the price already fixed and paid. Accordingly, we are of the view that the High Court is right in quashing the demands. We do not find any ground warranting interference. Though Shri Sharma

- A** seeks to contend about the effect of Section 15-A of the Rajasthan Tenancy Act on the nature of the right acquired by the respondents, that was not in dispute either before the High Court nor it arises in these cases.

We express no opinion on that.

- B** The appeals are dismissed. No costs.

T.N.A.

Appeals dismissed.