

CASE NO.:
Appeal (civil) 8723 of 1994

PETITIONER:
KARAM CHAND

Vs.

RESPONDENT:
UNION OF INDIA & OTHERS

DATE OF JUDGMENT: 19/03/2002

BENCH:
Doraiswamy Raju & Ashokk Bhan

JUDGMENT:

BHAN, J.

This appeal is directed against the judgment of a Division Bench of Punjab & Haryana High Court wherein the Division Bench has dismissed the writ petition filed by the appellant.

The brief facts of the case are as follows:

Urban agricultural land measuring 22 kanals 2 marlas comprised in Khasra Nos. 737, 738, 740 & 741 situated in the revenue estate, Jalandhar was put to auction by the Rehabilitation department of the Government of India on 31st July, 1959 in which Rameshwari Dass, husband of Respondent No.4 offered the highest bid of Rs.13,600/-. The sale was confirmed on 24th September, 1959. One Harnam Singh claiming to be the lessee of the land, challenged the aforesaid sale in the High Court of Punjab & Haryana in Civil Writ Petition No.24 of 1960. The writ petition was accepted and the concerned press note and the circular in pursuance thereof and the auction were set aside on 17.3.1961 on the ground that the press notes issued by the Central Government had no legal force. It is a matter of record that subsequently this Court in the case of Surinder Singh Vs. Central Government & Ors., AIR 1986 SC 2166, held such procedure to be valid.

Karam Chand, appellant herein, claiming to be the sub-lessee of the land applied for transfer of Khasra No. 737 (5 kanals 10 marlas), Khasra No.738 (15 kanals 6 marlas) to the Managing Officer of the Central Government. During the pendency of his application, the land was again scheduled for auction for the 4th June, 1969. The appellant filed an application before the Settlement Commissioner to stay the auction. The Settlement Commissioner by his order dated 3rd June, 1969 stayed the auction. Ultimately the appeal filed by the appellant was accepted by the Settlement Commissioner on 19th January, 1970 and it was directed that application submitted by him for the transfer of the land as a sub-lessee should be disposed of according to the instructions issued by the department. It is pertinent to mention here that Rameshwari Dass was not made a party in the appeal or in the remand proceedings before the Managing Officer.

On 3rd June 1971 Rameshwari Dass submitted an application to the Settlement commissioner for finalisation of the sale in his favour

in the light of instructions issued by the Government of India to the effect that after satisfying the claim of the lessee/sub-lessee, the balance area may be offered to the so called defeated auction purchaser. His request was accepted and after he had deposited the entire amount, the Managing Officer issued a Sale Certificate in favour of the auction purchaser on 21st August, 1972. On an objection raised by Karam Chand, appellant herein, Rameshwari Dass approached the department for issuing a Conveyance Deed instead of the sale certificate. The Managing Officer by his order dated 19th December, 1977 directed that a conveyance deed be issued in favour of Rameshwari Dass.

In the year 1977, Rameshwari Dass filed a Civil Suit for possession against the appellant and obtained an ex-parte decree on 31st May, 1977 for possession as well as mesne profits. The appellant on learning about the aforesaid decree, applied for setting aside of the ex-parte decree. His application was allowed on 25th November, 1978. Meanwhile, Rameshwari Dass sold the land, in dispute, in favour of one Mehnga Ram, respondent no.6 herein. This sale was challenged by the appellant and in which ultimately it was held by the Punjab & Haryana High Court by its order dated 3rd September, 1981 that Mehnga Ram was not a bonafide purchaser.

Armed with this judgment, the appellant preferred a revision petition before the Chief Settlement Commissioner under section 24 of the Displaced Persons (Compensation & Rehabilitation) Act, 1954 (for short 'the act') against the finalisation of the sale of the land in dispute in favour of Rameshwari Dass. His main contention was that during the pendency of the remand order dated 19th January, 1970 passed by the Settlement Commissioner neither the Sale Certificate dated 21st September, 1972 nor the Conveyance Deed dated 20th December, 1977 could have been issued in favour of Rameshwari Dass.

The Chief Settlement Commissioner accepted the revision petition of the appellant and remanded the case to the Tehsildar(Sales)-cum-Managing Officer to determine the eligibility of the appellant as a sub-lessee in compliance with the remand order of the Settlement Commissioner dated 19th January, 1970. During this period Rameshwari Dass died. His wife Kailash Wati and his daughter Kaushalya Devi and Mehnga Ram filed a revision before the notified Authority for exercising power under section 33 of the Act.

The Financial Commissioner(Revenue) and Secretary to the Government of Punjab, as a delegatee of the Central Government heard the revision petition. The order of the Chief Settlement Commissioner was set aside. It was held that the appellant had failed to establish that the appellant was in the cultivating possession of the land as a sub-lessee prior to 1.1.1956. That the record showed that in the year 1955-56 the land in dispute had been in possession of Mehar Chand. The appellant had applied for transfer in his favour for the first time on 15th April, 1967. In the Jamabandi for the year 1960-61, one Jagir Singh had been shown in unauthorised occupation of the land. The alleged transfer application filed by the appellant for the transfer of the land in dispute as a sub-lessee in the year 1967 was also not forthcoming on the record.

Accordingly a finding was recorded on merits by the Financial Commissioner that the appellant's application for transfer of the land in his favour was not maintainable. Another point on which the revision petition was accepted by the Financial Commissioner was that the revision petition filed by the appellant in the year 1983 challenging the conveyance deed dated 19th December, 1977 before the Chief Settlement Commissioner was delayed by a period of five and half years and therefore barred by time. The Chief Settlement

Commissioner had failed to take cognizance of the above fact. The revision petition was not accompanied by any application for condonation of delay. No affidavit explaining the delay had also been filed.

Aggrieved against the order of the Financial Commissioner, the appellant filed the writ petition, which has been dismissed by the High Court by the judgment impugned before us.

We agree with the counsel for the appellant that the Division Bench of the High Court has not given much reasons for dismissing the writ petition. The only reason given for not interfering in the matter by the Division Bench is that the litigation should be put to an end; at least at some stage.

As the litigation between the parties is going on for the last nearly 40 years, instead of remanding the case back to the High Court for decision on merits, we propose to dispose it of ourselves.

We do not find any infirmity in the order passed by the Financial Commissioner exercising the revisional powers under section 33 of the Act. The finding recorded by the Financial Commissioner that the appellant had failed to prove his continuous possession of the land as a sub-lessee from 1.1.1956 is a finding on fact. Counsel for the appellant failed to show before us with reference to any documentary evidence placed on record at any stage before the Authorities below or the High Court that the appellant had been in continuance possession of the land before or after 1st January, 1956. We further agree with the finding of the Financial Commissioner that the revision petition filed by the appellant before the Chief Settlement Commissioner was hopelessly barred by time. The revision petition was not accompanied by an application under section 5 of the Limitation Act for condonation of delay. No explanation was offered for the delay in filing the revision petition. It may be noticed that the appellant was all through aware of the fact that a conveyance deed had been executed in favour of Rameshwari Dass in the year 1977. No cause much less sufficient cause has been shown by the appellant to condone the inordinate delay of five & half years in filing the revision petition before the Chief Settlement Commissioner under Section 24 of the Act.

For the reasons stated above, we do not find any merit in this appeal and dismiss the same with no order as to costs.

.J.
[Doraiswamy Raju]

..J.
[Ashok Bhan]

March 19, 2002.