Tribhuban Parkash Nayyar, Appellant

Vs

The Union of India, Respondent

Civil Appeal No. 1568/68

(J. M. Shelat, I. D. Dua, C. A. Vaidialingam JJ)

10.10.1969

JUDGMENT

DUA, J. -

1. The appellant, a displaced person from Lahore, now in West Pakistan, submitted his claim in respect of the immovable property left by him there. The claim was submitted under the provisions of the Displaced Persons (Claims) Act XLIV of 1950 (hereafter called the Principal Act). The property in respect of which the claim was submitted was valued by the appellant at Rs. 10 lacs. It consisted of a building 2 1/2 storeyed high with 12 shops and as well as also some platform, etc. in Lenin Bazar, in Lahore. The Claims Officer verified this claim for Rs. 8 lacs. Against this order a revision was taken by the appellant to the Claims Commissioner who on May 1, 1953, in a brief order raised the value of the verified claim to Rs. 10 lacs. The relevant part of that order reads as under :

> "I have gone through the order of the learned Claims Officer and I find that he has given a queer argument to allow Rs. 8,00,000/- to the claimant. By every method tried by him the assessment went beyond Rs. 10,00,000/- and I think he ought to have allowed Rs. 10,00,000/- as claimed by the claimant. I enhance the assessment and allow Rs. 10,00,000/- to the claimant."

We would assume that the Claims Commissioner had been duly delegated the power of the Chief Claims Commissioner to revise the order of the Claims Officer, because no dispute was raised on this point. On the strength of the verified claim the appellant purchased two properties in Delhi at a public auction; one of them is situated in Daryaganj and the other in New Rajinder Nagar. On November 8, 1957, Shri M. S. Chaddha, Settlement Commissioner issued to the appellant an notice under the Displaced Persons (Claims) Supplementary Act, 1954, calling upon him to show cause why the order of the Claims Commissioner, dated May 1, 1953, be not revised and varied. On May 23, 1958, the said officer reduced the appellant's claim of Rs. 10 lacs to Rs. 15,000/-. The appellant then filed a writ petition under Article 226 in the Punjab High Court challenging the order reducing the value of his claim. A learned Single Judge on November 1, 1962, allowed the writ petition holding that the learned Settlement Commissioner exercising the power of the Chief Settlement Commissioner had proceeded to deal with the value of the property on wholly conjectural grounds. In a detailed order the learned Single Judge came to the conclusion that the Settlement Commissioner had not only ignored important evidence but had also held certain documents to be forged without any evidence in support of the finding. In the opinion of the learned Single Judge, therefore, there were clear errors of law on the face of the record rendering the order of the Settlement Commissioner open to challenge in writ proceedings in the High Court. On this view the

order was set aside and quashed. It was, however, observed that it would be open to the department to reconsider the entire matter as to valuation and come to a proper conclusion on evidence.

2. The respondent took the matter on appeal to a Division Bench under the Letters Patent and the Letters Patent Bench reversed the order of the learned Single Judge holding that on a reading of the order of the Settlement Commissioner it could not be said that his finding was based on no legal evidence. The appeal was accordingly allowed and setting aside the order of the learned Single Judge, the appellant's writ petition was dismissed. The appellant has come to this Court on appeal with certificate.

3. On behalf of the appellant two main points were raised before us. It was contended, in the first instance, that Shri. M. S. Chaddha, while exercising the power of the Chief Settlement Commissioner, had no jurisdiction to revise the order made by the Claims Commissioner exercising the revisional power of the Chief Claims Commissioner under the principal Act. Secondly, it was contended that there was a clear error of law apparent on the face of the record with the result that the learned Single Judge was fully justified in quashing the order of the Settlement Commissioner, and that the Letters Patent Bench was in error in allowing the appeal. While developing this ground of attack the counsel also submitted that in exercising the power of revision the Settlement Commissioner could not interfere with conclusions of fact and that he had, therefore, exceeded his jurisdiction in so doing.

4. In order to examine the first submission we have to turn to the provisions of the principal Act and of the Displaced Persons (Claims) Supplementary Act 120 of 1954 (hereafter called the Supplementary Act). The principal Act, enacted with the object of providing for the registration and verification of claims of displaced persons in respect of immovable property in Pakistan, was brought on the statute book on May 18, 1950 and was initially to remain in force for a period of two years only. Its life was extended by a further period of one year by means of an amendment in 1952. On the expiry of the third year the Displaced Persons (Claims) Supplementary Ordinance No. 3 of 1954, was promulgated pending the passage by the Parliament of the bill which later emerged in the shape of Supplementary act. The Ordinance was enforced on January 18, 1954. The Supplementary Act was enacted, as its preamble shows, to provide for the disposal of certain proceedings pending under the principal Act and for matters connected therewith. We have specifically referred to the preamble because on behalf of the appellant strong reliance was placed on the preamble in support of his construction of Sections 4 and 5 of the Supplementary Act, which deal with the revisional power of the Chief Settlement Commissioner appointed under this Act. It is not disputed at the bar that this Act was primarily designed to finalise the disposal of certain proceedings pending under the principal Act at the time of its expiry. According to the appellant the words "for matters connected therewith" in the preamble are intended to have the effect of restricting the ambit of its provisions exclusively to the proceedings actually pending on the date of the expiry of the principal Act, whereas, according to the respondent these words demand a liberal construction so as to bring within the fold of the Act all proceedings initiated for the registration of claims, notwithstanding the fact that final order of verification and valuation had already been made thereon. The respondent also placed strong reliance on the language used in Section 5 which, he argued, is plain and unambiguous and its ambit cannot be restricted by the preamble. That section reads as under :

> "5. (1) Special power of revision in respect of cases decided under Act XLIV of 1950. - Notwithstanding anything contained in the principal Act, the Chief Settlement Commissioner -

(a) may, on an application for revision made to him within time by any person aggrieved by the decision of the Claims Officer, call for the record of the case and make such order in the case as he thinks fit."

"Explanation. - For the purposes of this clause, an application for revision shall be deemed to be or to have been made within time, if -

(i) such application was not barred by limitation on the appointed day under the rules made under the principal Act and is filed within one month from the commencement of this Act; or

(ii) such application had been filed before the appointed day and was not, on the date on which it was filed barred by limitation under the rules made under the principal Act;

(b) may, on his own motion, but subject to any rules that may be made in this behalf, revise any verified claim and make such order in relation thereto as he thinks fit.

(2) No order varying the decision of the Claims Officer or revising any verified claim which prejudicially affects any person shall be made without giving an opportunity of being heard."

5. This special power of revision was conferred on the Chief Settlement Commissioner in addition to the ordinary power of revision conferred by the provision to Section 4(3) which was similar to the power of revision conferred on the Chief Claims Commissioner under the principal Act. The suo moto power to revise verified claims, according to the appellant's learned counsel, was designedly vested in the Chief Settlement Commissioner, he being the final authority under the Supplementary Act. But this power, argued the counsel, was not intended to extend to proceedings, which could not be considered to be pending under the principal Act. This argument was sought to be founded on the Preamble of the Supplementary Act. A verified claim which had been subjected to scrutiny by the Chief Claims Commissioner and bore the officer's seal under the principal Act, according to the appellant's counsel, could not be described to be a matter pending under the principal Act and a revision of such a claim could not be held to be a matter connected with a pending proceeding.

6. The object and purpose of a preamble to a statute is well settled and at the bar before us there was no serious dispute on this point. A preamble is a key to open the mind of the legislature but it cannot be used to control or qualify precise and unambiguous language of the enactment. It is a only when there is a doubt as to the meaning of a provision that recourse may be had to the preamble to ascertain the reasons for the enactment and hence the intention of the Parliament. If the language of the enactment is capable of more than one meaning then that one is to be preferred which comes nearest to the purpose and scope of the preamble. In other words, preamble may assist in ascertaining the meaning but it does not affect clear words in a statute. The courts are thus not expected to start with the preamble for construing a statutory provision nor does the mere fact that a clear and unambiguous statutory provision goes beyond the premble give rise, by itself, to a doubt on its meaning.

7. Now the language used in Section 5(1)(b) of the Supplementary Act is unambiguous and it clearly empowers that Chief Settlement Commissioner, subject to any rules that may be made, to revise any verified claim and make such orders in relation thereto as he thinks fit. A verified claim,

as defined in Section 2 (f) of the Supplementary Act, means any claim registered under the principal Act in respect of which a final order has been passed under that Act. Now it is difficult to contend that on a plain reading of Section 5(1)(b) in the light of the definition of the expression "verified claim", the Chief Settlement Commissioner had no power suo moto to revise a claim on which a final order had been passed under the principal Act by the Chief Claims Commissioner. It may be pointed out that according to the statutory scheme, under Section 5(1)(a) of the Supplementary Act an aggrieved party is entitled to apply to the Chief Settlement Commissioner for revision of decisions of the Claims Officers and there is adequate provision for safeguarding the interest of the aggrieved parties from any possible injury by reason of lapse of time. The difference in the language used in clauses (a) and (b) of Section 5(1) throws sufficient light on the legislative intent. The use of the words "revise any verified claim" seems prima facie to extend the power of revision also to verified claims bearing the stamp of scrutiny by the Chief Settlement Commissioner. Had the Parliament intended this power to be restriced, as suggested on behalf of the appellant, then it would have expressed such intention in clear words. The statutory scheme also supports this view. Under the proviso to Section 4(3) the Chief Settlement Commissioner has suo moto power of revision from the decisions of the Settlement Officers and under Section 5(1)(a) he has the power of revision on applications by aggrieved parties from the decisions of Claims Officers. But under Section 5(1)(b) the suo moto power of revision does not extent to all decisions but is confided only to verified claims though in this respect it takes within it sold all such claims and is not restricted to the claims verified only by the Claims Officers. On a plain reading of Section 5(1)(b), therefore, the Chief Settlement Commissioner's special power of revision would seem to us to extend to suo moto revision of the verified claims which had become final under the principal Act as a result of orders made by the Chief Claims Commissioner on revision. Neither any statutory bar nor any precedent has been cited against the exercise of the power; nor has any principle been brought to our notice which would induce us to restrict the plain language of Section 5(1)(b).

8. The submission that an order made on a revision can in no case be subjected to further revision, is also unacceptable on the statutory scheme and language. No constitutional bar to further scrutiny of such orders on revision was pointed out. It may in this connection be borne in mind that verification of claims under the principal Act involved proof in regard to title to, and value of, property left by the displaced persons in West Pakistan; and this had to be competed within a period of, originally, two years which was later extended by one year. The best evidence in this respect was only available in West Pakistan, and it is a matter of common knowledge that it was not easy for a average displaced person to secure such evidence. Chances of errors in verification and valuation of claims, in these circumstances, being not too few, the highest authority was advisedly in large public interest vested with a wide power to review and reassess such verified claims.

9. It was then contended that the power of revision under Section 5(1)(b) is restriced to the verification of the claim and its valuation is outside its purview. This contention is difficult to accept. It is true that "claim" as defined in the principal Act broadly speaking means the assertion of a right to ownership of, or to any interest in immovable property. But the Claims Officer under that Act has also to value the claim and the final order embraces both verification of tile and valuation. The definition of "verified claim" in Section (2)(f) of the Supplementary Act speaks of the final order and it includes valuation.

10. This takes us to the submission that the power of revision of the Chief Settlement Commissioner is circumscribed within the four corners of Rule 18 of the Displaced Persons (Verification of Claim) Supplementary Rules, 1954. This rule, of course specifically controls the exercise of the power of revision conferred by Section 5(1)(b) and this is not disputed. Rule 18 is in the following terms :

"18. Special revision of verified claims under clause (b) sub-section (1) of Section 5. - The Chief Settlement Commissioner may, while exercising the powers of special revision conferred on him by clause (b) of sub-section (1) of Section 5, call for the record of any verified claim and may pass any order in revision in respect of such verified claim in such manner as he thinks fit, if he is satisfied that such order should be passed on one or the other of the following grounds, namely -

(i) the discovery of any new matter or documentary evidence which after the exercise of the due diligence was not within the knowledge of or could not be produced by the claimant at the time when the claim was verified; or

(ii) correction of any clerical or arithmetical mistake apparent on the face of the record; or

(iii) gross or material irregularity or disparity in the valuation of the claim; or

(iv) any other sufficient reason :

Provided that the Chief Settlement Commissioner shall no entertain or taken into consideration any application or representation made to him under this rule by any claimant if such application or representation ins made after the 30th day of April, 1954."

11. It was contended that the grounds on which the Chief Settlement Commissioner revised the verified claim do not fall within the first three clauses of this rule. The fourth clause, according to Shri Gosain's argument, must be read ejusdem generis and so read this clause would also be inapplicable to the case. Reliance in support of this argument was placed on M. M. B. Catholics and Another v. The Most. Rev. Mar Poulose and Others, a case dealing with the power of review under Order 47, Rule 1, Civil P. C., the language of which, according to the appellant's counsel, is completely identical with that of Rule 18.

12. Let us examine the language of these two provisions. Rule 18 has already been reproduced. Order 47, Rule 1 (c), Civil P. C. which alone is relevant for our purpose is in the following terms :

"Rule 1. Any person considering himself aggrieved -

(a)..... .....

(b)..... .....

(c) by a decision on a reference from a Court of Small Causes and who, from the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the decree was passed or order made, or non account of some mistake or error apparent on the face of the record, or for any other sufficient reason, desires to obtain review of the decree passed or order made against him, may apply for a review of judgment to the Court which passed the decree or made the order.

#2. ....."##

13. From a plain reading of these two provisions the difference in their language is quite obvious. Clauses (i) and (ii) of Rule 18 are certainly similar to clause (c) of Order 47, Rule 1, but clause (iii) of Rule 18 is wholly different from clause (c) or Rule 1 of Order 47. It is difficult to hold these clauses to be similar in kind or to have a common genus. The former seems not only to take within its fold gross and material irregularity in the valuation of the claim, which to some extent resembles one of the grounds on which revisional power as contemplated by Section 115 Civil P. C. can be exercised, but also to include cases where there is disparity in the valuation of the claim. Quite clearly this clause is much wider in scope than Order 47, Rule (c). The expression "other sufficient cause" occurring in clause (iv) of Rule 18 has therefore to be construed in this context. When in a statute there are general words following particular and specific words, the general words are some times construed as limited to things of the same as those specified. This rule of interpretation generally known as ejusdem generis rule has been pressed into service on behalf of the appellant. This rule reflects an attempt to reconcile incompatibility between the specific and general words, in view of the other rules of interpretation, that all words in a statute are given effect if possible, that a statute is to be construed as a whole and that no words in a statute are presumed to be superfluous. Ejusdem Generis rule being one of the rules of interpretation, only serves, like all such rules, as an aid to discover the legislative intent; it is neither final nor conclusive and is attracted only when the specific words enumerated, constitute a class, which is not exhausted and are followed by general terms and when there is no manifestation of intent to give broader meaning to the general words.

14. The first three categories contained in Rule 18, in our opinion, do not form a genus or a class with the result that clause (iv) would not attract the ejusdem generis rule for its construction. But assuming that they constitute a class or kind of objects or genus, it appears to us that grounds given by the Settlement Commissioner are analogous to clause (iii) which speaks of gross and material irregularity or disparity in the valuation of the claim. This submission must, therefore, be rejected.

15. We now come to the merits of the order of the Settlement Commissioner. After going through the order and the material on the record, to which our attention has been drawn, were are satisfied that the settlement Commissioner has at more places than one based his conclusions on pure conjectures and surmises without there being any legal evidence on the record to support them. We do not consider it necessary to exhaustively deal with the argument in support of the errors of law on the face of the record for the purpose of considering the alleged infirmities in the order of the Settlement Commissioner. The learned Single Judge has dealt with this question at length and we are in agreement with his conclusions. We may only add that we have also locked at the original documents which appeared suspicious to the Settlement Commissioner, but we are unable to find any circumstance which could be said to be suspicious or abnormal so as to give rise to any reasonable doubt about their genuineness. The respondent's learned counsel also expressed his inability to being to our notice any material throwing suspicion on the genuineness of these documents. Indeed the learned counsel was frank enough to express his in ability to support the view taken by the Letters Patent Bench or to find fault with the conclusions of the learned Single Judge, whose order seems to be unexceptionable. We accordingly allow the appeal and setting aside the order of the Letters Patent Bench restore that of the Single Judge. It was agreed at the bar that as directed by the Single Judge the case should go back to the Chief Settlement Commissioner for a fresh decision in accordance with law. That this case can be remitted back to the Chief Settlement Commissioner in these proceedings was not disputed before us. We should, however, make it clear that this order is not to be construed to contain any expression of opinion on merits on the evidentiary value of the material on the record on the question of valuation of the claim. The appellant is entitled to his costs.

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