

Jaswant Singh Saluja and Another

Vs

Chief Settlement Commissioner and Another

Civil Appeal No. 606 of 1967

(CJI J. C. Shah, S. K. Hegde, A. N. Grover JJ)

05.01.1971

JUDGMENT

HEGDE, J. -

1. The appellants and their deceased father S. Bhagat Singh Saluja were originally residents of Wazirabad District which is now in Pakistan. At about the time of partition of the country, they migrated to India. In pursuance of a notification under Section 5 of the Displaced Persons (Claims) Act, 1950, they filed a claim for Rs. 1,63,500/- in respect of 10 items of immovable property left by them in Pakistan, out of which 9 were in the town of Wazirabad and one was in the village Mangat Tehsil. Their claim was duly verified and accepted by the Claims Officer. Thereafter on February 15, 1955, the appellants received from Respondent No. 2 a notice requiring them to appear before him on February 25, 1955 in connection with the proposed revision of their claim under the suo moto powers given under Section 5 of the Displaced Persons (Claims) Supplementary Act, 1954. In the notice the appellants were not informed the grounds on which the revision was sought to be made. When the 1st appellant appeared before Respondent No. 2 on February 25, 1955, he examined him and recorded his statement and thereafter on February 26, 1955 - the very next day - respondent No. 1 served an order on the appellants reducing the value of their property and fixing the same at Rs. 58,165.

2. The appellants challenged this order by means of a writ petition in the High Court of Punjab. The main ground taken in the writ petition was that the appellants had not been given adequate opportunity to show cause against the proposed revision of their claim. The learned single Judge who heard the writ petition dismissed the same holding that the first appellant being an advocate, the opportunity given to him must be considered as adequate. The other grounds taken on behalf of the appellants were also rejected. The Letters Patent Appeal taken by the appellants was also dismissed. Thereafter the present appeal has been brought after obtaining special leave from this Court.

3. The principal question that falls for decision in this appeal is whether the appellants had been given adequate opportunity to show cause against the proposed revision of the value of the property fixed by the Claims Officer. It may be noted that the Claims Officer's valuation had become final. If the authorities wanted to suo moto revise that order, the appellants should have been given a reasonable opportunity to show cause against the proposed revision. The appellants should have been informed the grounds on which the valuation was sought to be revised and they should have been also informed about the material in possession of the authorities justifying revision of the valuation earlier made. The notice issued to the appellants was a bald one. It merely called upon the appellants to appear before Respondent No. 2 in connection with the proposed suo moto revision;

the first appellant when he appeared before Respondent No. 2 was not informed the grounds on which the latter proposed to revise the valuation made by the Claims Officer; nor was he called upon to produce documents or oral evidence in support of his claim. It is clear from the material on record that the appellants had not been given reasonable opportunity to show cause against the proposed revision of the valuation. The mere fact that the first appellant is an advocate cannot cure all these defects. Even an advocate could not have divined what was passing in the mind of Respondent No. 2, unless the appellants had been informed the grounds on which the revision of the valuation was sought to be made. They might have showed cause against the proposed revision and possibly placed material before Respondent No. 2 to show that the impression gathered by him was not correct. Quite clearly the procedure adopted by Respondent No. 2 was opposed to the principles of natural justice. To say the least it was arbitrary.

4. In view of our above conclusion it is not necessary to go into the other grounds taken by the appellants.

5. For the reasons mentioned above, we allow this appeal, set aside the orders passed by the High Court; allow the writ petition and set aside the impugned order. The case will now go back to the Additional Settlement Commissioner or his present equivalent for disposal according to law. He will now give an adequate opportunity to the appellants to put forward their case and deal with their objections in accordance with law. The respondents shall pay the costs of the appellants both in this Court as also in the High Court.

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