

Bhagat Ram Batra

Vs

Union of India and Others

Civil Appeal No. 1875 of 1970

(H. R. Khanna, P. N. Bhagwati, Syed M. Fazal Ali JJ)

27.11.1975

JUDGMENT

KHANNA, J. -

1. This is an appeal an certificate by Bhagat Ram Batra against the order of the Punjab and Haryana High Court whereby a petition under Article 226 of the Constitution of India filed by the appellant against the Union of India and three others was dismissed in limine.

2. The appellant is a displaced person. On October 15, 1959 evacuee property 2 N. A. C. Ambala City was sold by public auction. The appellant gave the highest bid of Rs. 72,700 and his bid was accepted. The appellant wanted Rs. 45,620.05 paise, on account of compensation for the claim in respect of his property left in Pakistan, to be adjusted towards the sale price. Before the appellant could pay the balance of the price, he made a representation to the rehabilitation authorities that there had been an encroachment upon the property for which he had given the bid by the owner of the adjoining property and that the area of the property auctioned in his (the appellant's) favour was less than the area mentioned at the time of the auction sale. The rehabilitation authorities inspected the spot and found that the area of the property in fact was less that assessed by the valuation unit.

3. In his letter dated March 12, 1963, the appellant wrote to the Regional Settlement Commissioner that as the area of the property sold in his favour was less than what had been represented at the time of the auction sale, he was "not liable in purchase of the property, i.e., bungalow 2 N. A. C. Ambala City and am free from all liabilities". The Managing Officer (Sales) as per order dated July 21, 1966 cancelled the sale in favour of the appellant and directed that the property in question be resold by public auction. The property was thereafter resold by public auction on September 24, 1966 for rupees one lakh one thousand in favour of respondent No. 4. As the price of the property had appreciated, the appellant went up in appeal against the order of the Managing Officer and prayed that the auction sale in his favour should not have been cancelled. The appeal of the appellant was dismissed by the Assistant Settlement Commissioner as per order dated October 31, 1966. Revision filed by the appellant to the Chief Settlement Commissioner also met the same fate as per order dated May 17, 1969. The appellant then filed a writ petition before the Punjab and Haryana High Court to challenge the orders dated July 21, 1966, October 31, 1966 and May 17, 1969, but the said petition, as already stated above, was dismissed in limine.

4. We have heard Mr. Naunit Lal on behalf of the appellant and are of the opinion that there is no merit in this appeal. As would appear from the resume of the facts given above, the appellant did not stick to the auction sale in his favour, because he found that the area of the property sold in his favour was less than what had been represented at the time of the auction sale. It was at the instance

of the appellant that the Managing Officer cancelled the auction sale in favour of the appellant. The appellant, it seems, subsequently realised that as the value of the property had appreciated, he should not have asked for cancellation of the auction sale in his favour. This was, however, too late, because an order has already been made by the Managing Officer for the resale of the property. As it is, we find that as a result of the resale, the property fetched a price of rupees one lakh one thousand as against the price of Rs. 72,700 offered by the appellant. An offer was also made by the appellant that he was prepared to accept the property in dispute if the rehabilitation authorities allowed proportionate reduction in the price offered by him on account of the fact that the area of the property had been found to be less than what had been represented at the time of the auction sale. This was a conditional offer and the rehabilitation authorities were not bound to accept that offer. We find no cogent ground to interfere with the order of the High Court. The appeal fails and is dismissed but with no order as to costs.

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