

Charan Dass

Vs

Union of India and Others

Civil Appeal No. 2215(N) of 1970

(Syed M. Fazal Ali, P. S. Kailasam JJ)

15.04.1980

JUDGMENT

FAZAL ALI, J. –

1. This appeal by certificate granted by the High Court of Punjab & Haryana raises a very short point of law on which the appeal, in our opinion, would succeed.
2. In order, however, to understand the question of law involved, it may be necessary to give a brief resume of the admitted facts in the case. The appeal arises out of certain orders passed under the Displaced Persons (Compensation and Rehabilitation) Act, 1954. The appellant, Charan Dass and respondents 3 to 5 were displaced persons who came to the then State of East Punjab and applied for suitable accommodation to be given to them. The property in dispute is situate at 40/41, Ghosi Mandi, Ambala Cantt. which was allotted to the appellant and respondents 3 to 5. At first the entire property was allotted to the appellant, Charan Dass, in pursuance of an order dated May 19, 1959 by way of some sort of adjustment of his verified claim. Subsequently, portions of the property allotted to the appellant were transferred to respondents Sunder Singh and Kartar Singh. The appellant filed an appeal against this allotment to the Deputy Chief Settlement Commissioner who by his order dated April 27, 1960 allowed the appeal and remanded the matter to the Assistant Settlement Commissioner to dispose of the property after hearing the parties and considering the valuation reports. After the order of remand, the Assistant Settlement Commissioner by his order dated January 16, 1961 divided the house into two portions, the front portion being allotted to Charan Dass and the back portion to Sunder Singh and Kartar Singh. Smt. Krishna Wanti who had been deprived of her portion filed an appeal before the Chief Settlement Commissioner who again remanded the case for further division of the property according to Rules. Subsequently, however, as no division of the property was possible, the property was auctioned and was purchased by respondent 6 who deposited the amount of purchase before the concerned authorities. Rule 30, however, was deleted by an amendment but when the matter was canvassed before the Punjab & Haryana High Court, the court in the case of Pt. Dev Raj v. Union of India (AIR 1974 P&H 65 : ILR (1973) 1 Pun 192 : 75 Pun LR 270), held that the Rules could not be amended retrospectively and as a result of this decision, Rule 30 was restored so far as the proceedings in respect of the appellant and respondents 3 to 5 are concerned. In the above-mentioned case (AIR 1974 P&H 65 : ILR (1973) 1 Pun 192 : 75 Pun LR 270), the High Court observed as follows :

A retrospective operation is not to be given to a statute so as to impair an existing right or obligation otherwise than as regards matter of procedure, unless that effect cannot be avoided without doing violence to the language of the enactment. It is well settled that a statute is to be construed to operate retrospectively so as to take away or

impair a vested or substantive right, unless that intention is made manifest by language so plain and unmistakable that there is no possibility of any choice of meanings. If the enactment is expressed in language, which is fairly capable of either interpretation, it ought to be construed as prospective only. The retrospectivity of a procedural statute will not however affect substantive rights which have already vested in a citizen.

3. As a result of the decision of the High Court and the observations made therein, extracted above, Rule 30 stood restored to its original position and in respect of the property in dispute the logical consequence, therefore, of the decision of the Punjab & Haryana High Court which, in our opinion, had taken a correct view, the position was that the auction proceedings stood annulled and the parties stood restored to the status quo ante. In this view of the matter, the appeal has to be allowed because the High Court by its order under appeal had decided the case on the footing that Rule 30 would apply with retrospective effect. For these reasons, therefore, the appeal is allowed, the judgment of the High Court is set aside and the auction proceedings are quashed. The matter is remitted to the Assistant Settlement Commissioner to partition the property according to law or the Rules on the subject as directed by the Chief Settlement Commissioner earlier.

4. As, however, the auction had to be annulled for no fault of the auction-purchaser, respondent 6, he will be entitled to a refund of the entire money with interest at the rate of six per cent per annum from the date of the auction to the date of the payment. In order that the Department does not have to pay a large interest, we direct the respondent 1 through concerned Department to pay the money deposited by the auction-purchaser along with the interest indicated above within three months from today. In the peculiar circumstances of the case, there will be no order as to costs.

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