

State of Rajasthan and Another

Vs

Purkha Ram and Another

Civil Appeal No. 1559 of 1988

(K. Ramaswamy, N. Venkatachala JJ)

23.02.1994

ORDER

1. Leave granted in special leave petitions.
2. These appeals by special leave arise from the judgment of the Division Bench of the High Court of Rajasthan in Civil Special Appeal No 660 of 1986 and batch dated 11-3-1986. The fact which lie in a short compass, are stated as under.
3. The displaced persons under the Bhakra Nangal Dam were rehabilitated in Rajasthan Canal Produce area now known as Indira Gandhi Nehar Project in Rajasthan. From 1961 to 1967, various persons had been rehabilitated thereof. 50 bighas of land was allotted to each respondent in the appeal by proceedings dated 16-5-1961. Thereafter proceedings were issued by the Deputy Commissioner, Colonisation, Rajasthan on 28-12-1965 that in compliance of the Commissioner, Colonisation order of the above date, the allotment to the landlords farmers of the Bhakra Project in the R.C.P. area was on the terms and conditions mentioned thereunder, Condition Nos. 1 and 2 are relevant for the purpose of these cases:

"1. That the allottee will be bound by the provisions of Rajasthan Colonisation Act, 1954 and the rules thereunder as amended from time to time in future.

2. That the value of the land will be fixed by the State Government and it will be the responsibility of the allottee to make timely payment and allottee will also be responsible to pay in time the instalment of payment fixed by the State Government".

Thereafter R.C. (R.C.P. Government Land Allotment and Sale) Rules, 1967 (for short the Rules) were made exercising the power under Section 28 of the Rajasthan Colonisation Act, 1954 (Act No. 27 of 1954), for short the Act. Rule 8(1)(b) of the Rules, provides thus :

"8. (1)(b) All allotments of Government land made in the Rajasthan Canal Project area before the commencement of these rules on a permanent basis, irrespective of the area allotted to each allottee, shall be deemed to have been made under these rules and the allottee shall be liable to the payment of price of such land at the rates provided for in Rule 23".

Rule 23 prescribes the classification of the soil, price per bighas and price per murabba of 25 bighas which is described as a unit as under:

"23. Scales of price to be charged for different classes of land and the mode of payment.- Following shall be scales of price which may be charged for Government lands allotted under these rules for which various soil classes have been sanctioned by the Collector as defined in the Act.

#-----	Sl. Class of soil	Price per bighas	Price per murabba of No. 25 bighas-----
-----1.	Nali Canal ...	Rs 800.00	Rs 20,000.00
-----2.	Light Loam ...	Rs 675.00	Rs 16,875.00
-----3.	Sandy Loam ...	Rs 500.00	Rs 12,500.00
-----4.	Uncommand Lands ...	Rs 150.00	Rs 3750.00-----##

(2) No betterment fee shall be charged on Government lands allotted at above prices.

(3) In case land allotted as uncommand becomes command at any subsequent time, price payable will be (the market price prevalent at the time) for command land and the allottee shall be liable to pay the deficiency in price occasioned thereby and in case any land sold as command is declared as uncommand by the Irrigation Department before its price is fully paid up the amount paid towards the payment of the price thereof as command land, will be adjusted towards the price and instalments payable for it as uncommand land and any amount paid in excess thereof will be refunded to the allottee.

(4) Allottees other than Scheduled Castes and Scheduled Tribes shall pay 12 1/2% of the price and those belonging to the Scheduled Castes/Tribes shall pay 5% of the price at the time of allotment and the residuary amount shall be paid in ten equal instalments as indicated below in respect of each square of 25 bighas commencing from the year in which water is released for the irrigation of the allotted land".

A reading of the said provisions of the Act and Rule 8(1)(b) clearly indicates that the effect of the allotment made in favour of the displaced persons from Bhakra Nangal Project area and rehabilitated in Rajasthan Canal Project area was that the allotment was on permanent basis irrespective of the area allotted to each of the allottees. They shall be deemed to have been allotted under the Rules. The allottee was enjoined to pay the price of the land at the rate provided in Rule 23. It is an admitted case that the respondents did make payment as contemplated under Rule 23.

4. But in the year 1984 steps have been taken purporting to be under Rajasthan Colonisation (Allotment and Sale of Government Land in the Rajasthan Canal Colony Area) Rules, 1975 and in particular Rule 4 thereof, directing the respondents to pay prevailing current price for 25 bighas and four times the price fixed for 25 bighas, lands in excess of 25 bighas. The notice in that behalf was issued on 15-6-1984. Calling that rule in question, the respondents filed the writ petitions in the High Court. Persons similarly situated also filed several writ petitions. As stated earlier, the High Court held that the Government has no power to reopen the price, which was already settled by exercising the power under Rule 4 of 1975 Rules. Accordingly, the demands were quashed. Thus appeals by special leave.

5. Shri B. D. Sharma, learned counsel appearing for the State contended that when the allotment was deemed to be under the Rules, when Rule 8(1)(a) of 1967 Rules expressly postulates that subject to special conditions and terms of the allotment "to be made" would apply to the persons covered by Rule 8(1)(b). Therefore, the respondents are liable to pay the present current price for 25

bighas of land and 4 times price fixed for the excess lands. We find no force in the contention. Rule 8(1)(a) reads thus :

"8. (1)(a) Subject to the provisions contained in the Act, these rules and the terms and conditions specified in the Rajasthan Colonisation (General Colony) Conditions, 1955, allotments of Government lands under these rules shall be on a permanent basis, the allottees being eligible ultimately to the conferment of Khatadari rights subject, however, to special terms and conditions, which might hereafter be imposed by the Government".

A reading of this rule would clearly show that its operation is prospective subject to the provisions contained in the Act, the rules and the special terms and conditions specified in the Rajasthan Colonisation (General Colony) Conditions, 1955, allotments of Government lands under these Rules shall be on permanent basis, the allottees would be eligible ultimately to the conferment of the Khatadari rights subject, however, to special terms and conditions which might hereafter be imposed by the Government would be applicable and the allottees are bound by them. On the word 'hereafter', emphasis was laid by Shri B. D. Sharma to contend that the allottees the displaced persons under Bhakra Nangal Project who would come under Rule 8(1)(b) are also bound by the special terms and conditions enumerated in Rule 8(1)(a) and that, therefore, they are bound to pay the demands as issued in the impugned notice. A reading of the rule does not warrant such an interpretation. Rule 8(1)(a) would prospectively apply independently to the future allottees, be they displaced persons or any person applying for allotment. They alone would be bound by the terms and conditions. If the rule-making authority intended the operation of Rule 8(1)(a) to apply to the persons covered by Rule 8(1)(b), suitable language would have been employed in Rule 8(1)(b) to make them liable to the special terms and conditions. We find no such language. From Rule 8(1)(b) itself, no such indication is discernible. Unfortunately, no such language was there even to impliedly so suggest. On the other hand, it is said expressly that "the allottee shall be liable to the payment of price of such land at the rates provided for in Rule 23". Thereby, their liability is only with reference to the rates fixed under Rule 23. As admittedly, the respondents have paid the price fixed under Rule 23, there is no power for the Government to revise the price already fixed and paid. Accordingly, we are of the view that the High Court is right in quashing the demands. We do not find any ground warranting interference. Though Shri Sharma seeks to contend about the effect of Section 15-A of the Rajasthan Tenancy Act on the nature of the right acquired by the respondents, that was not in dispute either before the High Court nor it arises in these cases. We express no opinion on that.

6. The appeals are dismissed. No costs.

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