

Smt Maqbool Fatma and Others

Vs

Deputy Custodian General, Evacuee Property and Another

SLP No. 14717 of 1996

(K. Ramaswamy, G. B. Pattanaik JJ)

10.07.1996

ORDER

1. Delay condoned.

2. This special leave petition arises against the judgment and order of the High Court of Allahabad made on 28-1-1991 in CWP No. 4770 of 1976. The admitted position is that one Ashfaq Hussain was an evacuee having migrated to Pakistan. His property was vested in the Custodian under the U.P. Custodian of Evacuee Properties Act. Therefore the Central Act had taken over the operation of the evacuee properties. The records disclose that the Assistant Custodian, Farrukhabad at Kanpur had passed an order dated 22-6-1961 in which it was held that the interest of Ashfaq Hussain had been shown as evacuee-interest and it was directed that the order be communicated to all the major shareholders for information. It was found that the order was accordingly communicated to all the major shareholders. Admittedly, a revision application came to be filed on 16-8-1975, that is, practically after 14 years under Section 27 of the Administration of the Evacuee Property Act, 1950 (for short "the Act"). The Additional Custodian General had declined to interfere with the order. When the petitioner had called that order in question in the writ petition, the High Court held that the Additional Custodian General had properly exercised the revisional jurisdiction and it declined to interfere with the order due to the inordinate delay in filing the revision. Thus this special leave petition.

3. It is sought to be contended by the learned counsel for the petitioner that the judgment relied upon by the High Court is not of any help to the view taken by the High Court and that, therefore, the High Court was not right in its conclusion. This Court in *Purshotam Lal Dhawan v. Diwan Chaman Lal* [AIR 1961 SC 1371 : (1962) 1 SCR 297] has held that Section 27 of the Administration of Evacuee Property Act, 1950 does not prescribe any period of limitation, but Rule 31(5) prescribes limitation of 60 days for filing an appeal and that it would provide as guide to the revisional authorities to exercise the revisional power reasonably and fairly. In that case, entertaining the revision within one year was held to be not unreasonable. In that behalf, this Court has held that the powers of the Custodian General under Section 27 read with Rule 31(5) are not intended to be exercised arbitrarily. Being a judicial power, he shall exercise his discretion reasonably and it is for him to consider whether in a particular case he should entertain a revision beyond the period of sixty days stated in Rule 31(5). It was held that the exercise of the revisional powers after one year was held to be not unreasonable.

4. It is seen that the petitioners had slept over the rights over the property well over 14 years by which time even the persons in possession had perfected their title by prescription. Under those circumstances, a person who was not diligent in exercising his rights and allowed third party rights

to accrue, cannot be permitted to agitate the right after an inordinate delay. The revisional authority has rightly declined to interfere with the order after inordinate delay. Though revisional power was given to the revisional authority without limitation, it is settled law that the revisional powers should be exercised keeping in view the rights of the parties and the effect of exercise of the revisional powers and all other relevant facts. Under these circumstances, we cannot hold that the High Court was not justified in dismissing the writ petition.

5. The special leave petition is accordingly dismissed.