

SUPREME COURT OF INDIA

Estate Officer, U.T. Chandigarh & Ors.

Vs

Rajan Soi & Ors.

C.A.No.423 of 2008

(Kurian Joseph and R.F.Nariman, JJ.)

02.03.2016

JUDGMENT

Kurian Joseph, J.

1. We have heard learned counsel for the parties.
2. Respondent Nos. 1 to 3 in Civil Writ Petition No. 20326 of 2004 are before this Court, aggrieved by the judgment dated 21.4.2006. The writ petitioners had approached the High Court, aggrieved by the various orders passed with regard to cancellation of a plot allotted to one Milkhi Ram, S/o Madho Ram.
3. The first prayer made by the writ petitioners before the High Court was to issue a writ in the nature of Certiorari quashing the impugned orders Annexures P/2, P/3, P/5, P/6, P/8, P/8A, P/9, P/11 and P/13 as well as quashing the entire proceedings initiated and undertaken by the respondents for cancellation of the premises i.e. plot bearing No.192, Sector 40, Chandigarh especially in view of the fact that petitioners were ready to make the entire payment due till date.
4. It appears that when the writ petition came for hearing before the High Court, learned counsel appearing for the writ petitioners made a submission for an offer that it was not necessary for the High Court to go into the merits of the case, since the writ petitioners proposed to file an application under Rule 21-A of the Chandigarh Lease-hold of Sites and Buildings Rules, 1973 (in short, 'the Rules'). It was also submitted that in case such an application is filed, the same could be directed to be considered in the light of judgment of this Court in *Jasbir Singh Bakshi versus Union Territory, Chandigarh and others, reported in'* In terms of the request thus made, the writ petition was disposed of by the impugned order.
5. Thus aggrieved, the Union Territory, Chandigarh is before this Court in civil appeal.

6. The main contention of the appellant is that Jasbir Singh Bakshi (supra) does not apply in the case of the writ petitioners. That was a case where this Court considered the deposit made by the defaulter and virtually gave some more time to pay the balance. Additionally, it is pointed out that it was a case of resumption and not a case for re-transfer under Rule 21-A of the Rules. As far as the writ petitioners are concerned, it is pointed out that the stage where the writ petitioners could seek for some more time to make the defaulted instalments had already been over before this Court by virtue of order dated 12.12.1991 in Special Leave Petition(C) No. 75920 of 1991. Therefore, the High Court went wrong in disposing of the writ petition with a direction to the appellant to re-consider the case of the writ petitioners in the light of Jasbir Singh Bakshi's case, it is submitted.

7. Be that as it may, in view of the background of the litigation wherein the writ petitioners had challenged the successive orders with regard to cancellation and rejection of request made by them for time for re-payment, without considering the merits of the matter, a direction could not have been issued to consider the case of the writ petitioners in the light of Jasbir Singh Bakshi's case, which we have already noted above, in our view, does not apply to the case of the writ petitioners.

8. We, therefore, allow this appeal, set aside the impugned judgment and remit the writ petition to the High Court for fresh consideration in accordance with law.

9. No order as to costs.

¹(2004) 10 SCC 0440