

# SUPREME COURT OF INDIA

Gurdev Singh

Vs.

Union of India

C.A.No.3894 of 2019

(L.Nageshwara Rao and M.R.Shah,JJ.,)

12.04.2019

## JUDGMENT

**M.R.Shah,J.,**

SLP(C)No.26111/2015

1. Leave granted.
2. Feeling aggrieved and dissatisfied with the impugned judgment and order dated 13.05.2015 passed by the Division Bench of the High Court of Delhi at New Delhi passed in Letters Patent Appeal No. 282 of 2010, by which the Division Bench of the High Court has allowed the said appeal preferred by the respondents herein - Union of India and others and has quashed and set aside the judgment and order passed by the learned Single Judge of the High Court, the heirs of the original writ petitioner have preferred the present appeal.
3. The facts leading to the present appeal in nutshell are as under:

That the father and predecessor-in-interest of the appellants - Hem Singh was a migrant from Pakistan and was registered as a 'displaced person'. That the claims to the properties left behind by the said Hem Singh and his wife in Pakistan were verified and assessed in the year 1951. That Displaced Persons (Compensation & Rehabilitation) Act, 1954 (hereinafter referred to as the 'Act') and the Rules made thereunder in the year 1955 came into force to compensate and rehabilitate the displaced persons who had migrated to India from Pakistan on account of partition of the country in the year 1947. That the property in question was offered for transfer to the said Hem Singh in the year 1985 for a consideration of Rs.26,01,846/- on the then prevailing market value as per Rule 24.

3.1 Feeling aggrieved by the said valuation, the said Hem Singh challenged the same in appeal before the Settlement Commissioner under Section 22 of the Act. At this stage, it is required to be noted that the challenge was only with respect to

valuation. The said appeal came to be dismissed solely on the ground that the appeal had become infructuous because the offer had lapsed on account of not having been accepted within 30 days of its receipt by the said Hem Singh. Against the order of the Settlement commissioner, Hem Singh preferred revision petition under Section 24 of the Act, which also came to be dismissed. A further revision at the instance of Hem Singh also came to be dismissed.

3.2 That the aggrieved Hem Singh moved the High Court by way of Writ Petition No. 1684 of 1994. Before the High Court also, the main argument of the original writ petitioner was that the rates prevailing in the year 1955, when the Rules came into force, should apply. Thus, before the High Court also, the challenge was with respect to the valuation. Before the High Court, the challenge to the valuation was given up and the original writ petitioner agreed to pay the amount, as determined by the authority, i.e., Rs.26,01,846/-. However, as by the time number of years had elapsed, the learned Single Judge proceeded on equitable terms by holding that on the writ petitioner's paying to the department the price quoted in the year 1985, along with interest @ 10% per annum from 1.4.1985 till the date of payment, sale deed in his favour be executed and consequently disposed of the said writ petition by judgment and order dated 14.07.2009 and directed that on payment of the price quoted in the year 1985 along with interest at the rate of 10% per annum from 1.4.1985 till the date of payment, the plot in question shall be sold to the original writ petitioner.

4. Aggrieved by the judgment and order dated 14.07.2009 passed by the learned Single Judge in writ petition no. 1684/1994, the Union of India and others preferred LPA before the Division Bench of the High Court of Delhi. By the impugned judgment and order, the Division Bench of the High Court has allowed the said appeal preferred by the Union of India and others and has quashed and set aside the judgment and order passed by the learned Single Judge of the High Court.

5. Feeling aggrieved and dissatisfied with the impugned judgment and order passed by the Division Bench of the High Court, the heirs of the original writ petitioner (the original writ petitioner died during the pendency of the appeal before the High Court) have preferred the present appeal.

6. We have heard Shri Jayant Bhushan, learned Senior Advocate appearing on behalf of the appellants and Shri Chirag M. Shroff, learned Advocate appearing on behalf of Govt. of NCT of Delhi.

6.1 Shri Jayant Bhushan, learned Senior Advocate appearing on behalf of the appellants has vehemently submitted that as such the entitlement of the land in question by the said Hem Singh under the Act as a displaced person cannot be disputed as the authority itself in the year 1985 allotted the land in question in favour of Hem Singh. It is submitted that however, at the relevant time, the father of the appellants was aggrieved by the valuation and the price determined in the order of allotment passed in the year 1985. It is submitted that thereafter the litigation

with respect to valuation at the instance of Hem Singh came to be continued. However, ultimately, before the learned Single Judge of the High Court, the allottee - Hem Singh given up his challenge to the valuation and accepted and agreed to pay the price fixed in the year 1985. It is submitted that therefore the dispute with respect to valuation came to an end. It is submitted that, however, as in the meantime number of years have elapsed, the learned Single Judge of the High Court considered the matter on equity and rightly directed the original writ petitioner to pay the price as mentioned in the order of 1985, together with interest @ 10% per annum. It is submitted that the original writ petitioner deposited Rs. 89 lakhs with the High Court, amount as determined pursuant to the order passed by the learned Single Judge. It is submitted that the said amount deposited on 25.08.2010, by now, has come to Rs.1.41 crores. Shri Jayant Bhushan, learned Senior Advocate appearing on behalf of the appellants has stated at the Bar that looking to the objections raised on behalf of the respondents herein, raised before the Division Bench of the High Court, the appellants are ready and willing to pay some further reasonable amount.

7. Having heard the learned counsel for the respective parties and the fact that the entitlement of the plot in question to the original allottee - Hem Singh cannot be disputed and that the authority itself allotted the land in the year 1985 to Hem Singh on a consideration of Rs.26,01,846/- and on certain other terms and conditions and considering the principal grievance of the respondents herein - original appellants before the Division Bench of the High Court that the learned Single Judge erred in directing the respondents herein in the year 2009-10 to sell the immovable property to the original writ petitioner at a price at which the original writ petitioner had 25 years prior thereto offered to sell the said property though together with interest @ 10% per annum, but without regard to the fact that the market price of the property in the year 2009-10 and which alone was the criteria under the Rules under which the property was offered to be sold to the original writ petitioner, was far far more than the price prevalent, 25 years earlier in the year 1985 together with simple interest thereon @ 10% per annum, we called upon the learned counsel appearing on behalf of the respective parties to file an affidavit regarding the valuation of the said property as on today.

8. Pursuant to the same, an additional affidavit along with fresh valuation has been filed on behalf of respondent nos. 4 & 5 - Government of NCT of Delhi. According to the valuation report annexed with the additional affidavit, the total value of the property in question comes to Rs.6,14,79,533/-, as under:

Sr. No.	Description	Remarks
1	Category	'E'
2	Total Plot Area	272.09 Sq. Mtrs.
3	Total Plinth Area	Ground Floor = 272.09 Sq. Mtrs. First Floor = 222.74 Sq. Mtrs. Total = 494.83 Sq. Mtrs.
4	User Factor	Commercial (3)
5	Structure Factor (Pacca)	Pacca (1)
6	Year of Construction	1983
7	Age Factor	0.80
8	Cost of Land	Rs.70,080/- per sq. mtr
9	Building Floors	Ground and First
10	Cost of Land (land rate per Sq. Mtrs. X use factor x area)	=272.09x3x70,080 =Rs.5,72,04,201.6/- (A)
11	Cost of Construction	=10,800/- per sq. mtr.
12	Minimum cost of construction = (Cost of construction, per sq. mtrs. X plinth area x age factor)	=10,800x494.83x0.80 =Rs.42,75,331.20/- (B)
13	Total Value = (A + B)	=Rs.6,14,79,533/- (Round Off)

8.1 Shri Jayant Bhushan, learned Senior Advocate appearing on behalf of the appellants has submitted that there is an arithmetical error in calculating the cost of the land. It is submitted that the total plot area is 222 Sq. Mtrs. and in the valuation report it is wrongly considered as 272.09 Sq. Mtrs. It is submitted that therefore to that extent the cost of the land is required to be reduced. It is further submitted by Shri Jayant Bhushan, learned Senior Advocate appearing on behalf of the appellants that the valuation report contains Rs.42,75,331.20 towards minimum cost of construction. It is submitted that the aforesaid is too exorbitant/high. It is submitted that in any case the appellants would be demolishing the entire structure. He has stated at the Bar that the appellants are ready and willing to pay any further amount, as may be directed by this Court.

9. Though the learned Advocate appearing on behalf of Govt. of NCT of Delhi has tried to resist the aforesaid offer, we are of the opinion that if the appellants are directed to pay some more reasonable amount considering the fact that number of years have passed and even the price of the land has also increased, it would meet the ends of justice. At the same time, to direct the appellants to pay the present market value/market price would also be unreasonable. Therefore, taking into over all facts and circumstances of the case, we are of

the opinion that if the appellants are directed to pay Rs.3,66,30,000/- towards the cost of the land and Rs.20,00,000/- towards the cost of construction of the existing building, it will meet the ends of justice. As observed hereinabove, the appellants have deposited Rs.89 lakhs in the Registry of the High Court on 25.08.2010. It is reported that now the aforesaid amount with interest comes to Rs.1.41 crores. Therefore, the appellants are required to pay the aforesaid determined amount minus Rs.1.41 crores.

10. In view of the above and for the reasons stated above, we set aside the impugned judgment and order passed by the Division Bench of the High Court by directing that on the appellants depositing a total sum of Rs.3,86,30,000/- minus Rs.1.41 crores with the authority, within a period of four weeks from today, the respondents-authority shall sell the property in question in favour of the appellants and handover the possession to them. If any expenditure is to be incurred towards stamp duty/registration fee etc., the same shall be paid by the appellants. The respondents-authority shall be permitted to withdraw the amount of Rs.89 lakhs deposited by the appellants, lying in the High Court, along with accrued interest thereon.

11. The present appeal is allowed to the aforesaid extent.

12. No costs.