

that case, I simply noticed the contention of the learned counsel and did not pronounce upon its correctness. After noticing the contention I proceeded to decide the case on its own facts. The decisions to which I referred in that case do not deal with the question now to be settled. Therefore, the decision in *Bakhtawar Singh's case* (4) is no authority for the view which its headnote adumbrates. This aspect of the case is concluded by the Division Bench decision in *Dalip Singh's case* (1) wherein it has been held that if in the first instance an order has been passed on the basis of one alternative, it is open to the Court, on application of the party, to alter that order and permit the other alternative to be followed. In view of the decision in *Dalip Singh's case* (1), the second contention has no merit and must fail.

(7) The only question that remains to be settled is as to what order is to be passed in the present proceedings ? It is obvious that the order of the trial Court which is the subject matter of revision is without jurisdiction and has to be vacated. The only course open is to direct the trial Court to pass a proper order keeping in view the observations made above. As soon as the Court passes a proper order it will give time to the plaintiff to comply with it.

(8) For the reasons recorded above, this petition is allowed and the order of the trial Court is set aside. There will be no order as to costs. The parties are directed to appear in the trial Court on 25th of May, 1970.

B. S. G.

APPELLATE CIVIL

Before Mehar Singh, C.J. and B. R. Tuli, J.

LILA KRISHAN, ETC.—Appellants

versus

UNION OF INDIA, ETC.—Respondents

Letters Patent Appeal No. 278 of 1966

May 13, 1970

Displaced Persons (Compensation and Rehabilitation) Act (XLIV of 1954)—Section 19(2)—Auction of evacuee property in possession of an unauthorised occupant—Title conferred on the auction-purchaser—Unauthorised occupant—Whether can be dispossessed by Rehabilitation authorities in order to deliver possession to the auction-purchaser.

Lila Krishan, etc. v. Union of India, etc. (Tuli, J.)

Held, that the language of sub-section (2) of section 19 of Displaced Persons (Compensation and Rehabilitation) Act, 1954 clearly shows that it relates to evacuee property or any other immovable property forming part of the compensation pool. If the property has ceased to be evacuee property, or part of the compensation pool on the date the action for dispossession is taken, the authorities under the Act will have no jurisdiction to do so. The property ceases to be evacuee property and goes out of the compensation pool when it is sold and the title is conferred on the purchaser by the issue of a sale-certificate. The Rehabilitation authorities under the Act cease to have any jurisdiction in respect of that property thereafter. They cannot dispossess unauthorised occupant of the property and deliver the possession to the auction-purchaser. The auction-purchaser, after acquiring title to the property, becomes full owner thereof and can exercise all rights of ownership like any other owner with regard thereto. He can follow his legal remedies for dispossessing the unauthorised occupant but has no right to insist that the Rehabilitation authorities should deliver the possession of the property to him merely because it was sold by them in a public auction. (Para 2)

LETTERS PATENT APPEAL under clause X of Letters Patent against the judgment of the Hon'ble Mr. Justice Gurdev Singh passed in Civil Writ No. 557 of 1964 on 23rd March, 1966.

H. S. WASU, SENIOR ADVOCATE WITH B. S. WASU, ADVOCATE, for the Appellants.

D. N. AGGARWAL, SENIOR ADVOCATE WITH B. N. AGGARWAL, ADVOCATE, for Respondents Nos 3 and 4.

JUDGMENT

TULI, J.—1. The appellants purchased urban agricultural land comprised in Khasra Nos. 2840 to 2848 situate within the municipal limits of Hissar which was sold by public auction by the Rehabilitation authorities under the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (hereinafter called the Act), in the year 1958. The land was then in unauthorised occupation of Budh Ram and Chandgi Ram, respondents 3 and 4. On November 12, 1958, the Assistant Settlement Commissioner wrote to the Deputy Commissioner, Hissar, to arrange for delivery of possession of the land to the appellants. Respondent 3 thereupon brought a suit for a declaration that he was in possession as tenant and thus not liable to eviction and for a permanent injunction restraining the defendants from dispossessing him from the land. This suit was dismissed on October 30, 1959. He then filed C.W. 1490 of 1960 in this Court which was dismissed *in limine* on September 19, 1960. Before respondents

3 and 4 could be dispossessed, the Rehabilitation authorities issued the sale certificate to the appellants on August 22, 1962, and on February 5, 1963, the Settlement Officer directed the Tahsildar, Hissar, to deliver possession to the appellants. Respondent 3 again objected to it and filed an appeal which was dismissed on July 25, 1963, by the Settlement Commissioner. Respondents 3 and 4 then went up in revision which was accepted by the Deputy Chief Settlement Commissioner exercising the delegated powers of the Chief Settlement Commissioner on December 19, 1963. By this order, the Deputy Chief Settlement Commissioner directed that the proceedings for the dispossession of respondents 3 and 4 should be dropped. The basis of the order was that the sale certificate having been issued to the appellants on August 22, 1962, the property had gone out of the compensation pool and thus the Rehabilitation authorities were not left with any jurisdiction to deal with that property or to dispossess the said respondents who were in possession of the same. The appellants moved the Central Government under section 33 of the Act but without any success. The appellants then filed a petition under Articles 226 and 227 of the Constitution in this Court for a writ of *mandamus* requiring the Rehabilitation authorities to deliver possession of the land which they had purchased from them in a public auction in 1958. This petition was dismissed by a learned Single Judge on March 23, 1966, and the present appeal under Clause 10 of the Letters Patent is directed against that order.

2. The learned counsel for the appellants has relied on section 19(2) of the Act, which runs as under:—

“19. (2) Where any person,—

- (a) has ceased to be entitled to the possession of any evacuee property by reason of any action taken under subsection (1), or
- (b) is otherwise in unauthorised possession of any evacuee property or any other immovable property forming part of the compensation pool,

he shall, after he has been given a reasonable opportunity of showing cause against his eviction from such property, surrender possession of the property on demand being made in this behalf by the Managing Officer or Managing Corporation or by any other person duly authorised by such officer or corporation.”

Lakhi Ram v. Lakhi Ram (Mahajan, J.)

The language of this sub-section clearly shows that it relates to evacuee property or any other immovable property forming part of the compensation pool. If the property has ceased to be evacuee property, or part of the compensation pool on the date the action for dispossession is taken, the authorities under the Act will have no jurisdiction to do so. The property ceases to be evacuee property and goes out of the compensation pool when it is sold and the title is conferred on the purchaser by the issue of a sale certificate. The Rehabilitation authorities under the Act cease to have any jurisdiction in respect of that property thereafter. The appellants have become owners of the land purchased by them in 1958 by the issue of sale certificate in their favour and, therefore, can exercise all rights of ownership like any other owner with regard to that land. They can follow their legal remedies for dispossessing respondents 3 and 4 but they have no right to insist that the Rehabilitation authorities under the Act should deliver the possession of the land to them merely because it was sold by them in a public auction. There is thus no substance in this appeal which is dismissed with costs. Counsel's fee Rs. 100.

MEHAR SINGH, C.J.—I agree.

B. S. G.

REVISIONAL CIVIL

Before D. K. Mahajan, J

LAKHI RAM,—Petitioner

versus

LAKHI RAM,—Respondent

C.R. No. 97 of 1970

May 15, 1970

East Punjab Urban Rent Restriction Act (III of 1949)—Section 13(2)—Tender by tenant of arrears of rent plus interest and costs on the first date of hearing—Such tenant however disputing liability to pay interest and costs—Tender of the amount—Whether valid.

Held, that it is open to a tenant to pay the entire amount due from him and also dispute his liability for the same. The matter is different if the amount tendered is short or its payment to the landlord is made conditional. The tender is a valid tender, if no conditions as to payment