

Arya Pratinidhi Sabha Punjab, v. Lal Chand and another, the case. With respect, we are inclined to agree with the view expressed by Viswanatha Sastry, J., in the *Ramabrahma Sastri's case (6)*.

Grover, J.

In the present case the lower appellate Court did not give any finding with regard to the damage which the plaintiff is suffering or would suffer owing to the existence of the alleged encroachments. It is essential, therefore, before the present appeal can be disposed of, to obtain that finding from the lower appellate Court. We direct that Court to submit a report containing its finding on the above matter with particular reference to issue No. 5 within three months from today.

The parties are directed to appear in the lower appellate Court on 21st October, 1963. No fresh evidence will be allowed to be produced.

The appeal shall be set down for hearing after the report has been received.

D. FALSHAW, C.J.—I agree.

B.R.T.

CIVIL MISCELLANEOUS

Before Gurdev Singh, J.

RATTAN SINGH AND ANOTHER,—Petitioners

versus

UNION OF INDIA AND ANOTHER,—Respondents

Civil Writ No. 1449 of 1962.

1963
Sept., 19th

Displaced Persons (Compensation and Rehabilitation) Act (XLIV of 1954)—S. 24(3)—Chief Settlement Commissioner—Whether can cancel sale of property without notice to the alienees of the vendee.

Held, that according to the provision contained in sub-section (3) of section 24 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954, a person, who is prejudicially affected by an order made under that section must be afforded an opportunity of being heard. Since the petitioners were in possession of the property as *bona fide* transferees from the original purchaser Ujagar Singh, for valuable consideration, there can be no doubt that the order of cancellation of the sale prejudicially affected them. In fact, they were the only persons to whose prejudice the order operated as Ujagar Singh had ceased to have any interest in the property and had recovered from them the amount that he had paid to the Rehabilitation Authorities as purchase money. The words used in sub-section (3) of section 24 is not an allottee or the person to whom proprietary rights had been granted, but "any person", who may be prejudicially affected by the order, which must include a *bona fide* transferee for valuable consideration. This provision has been advisedly made as the legislature was conscious of the fact that after the proprietary rights are granted to the allottees or the property sold away, there may be further transfers by the persons acquiring ownership rights, and it would be unjust to pass orders behind their back and to their prejudice especially when the original purchasers or the allottees may not feel interested in defending the allotments or sales.

Petition under Articles 226 and 227 of the Constitution of India praying that a writ of mandamus, certiorari, or any other appropriate writ, order, or direction be issued quashing the orders of respondents Nos. 1 to 3 dated 18th July, 1962, 5th May, 1962 and 13th February, 1962, respectively.

H. S. WASU, ADVOCATE, for the Petitioners.

C. D. DEWAN, DEPUTY ADVOCATE-GENERAL, Y. P. GANDHI AND B. S. WASU, ADVOCATES, for the Respondents.

ORDER

GURDEV SINGH, J.—The Industrial Establishment *Gurdev Singh, J.* No. 164, Batala, which was an evacuee concern, was leased out to Ujagar Singh (respondent No. 5) at a public auction on 14th August, 1951. After the acquisition of the property by the Central Government

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under section 12 of the Displaced Persons (Compensation and Rehabilitation) Act, Ujagar Singh obtained the same on payment of its assessed price (Rs. 7971) and a sale-certificate was issued in his favour by the District Rent and Managing Officer on 26th June, 1957. On 29th November, 1957, Ujagar Singh sold it to the petitioners, Rattan Singh and Gurbachan Singh, under a registered sale deed for the same consideration for which he had himself got it from the Rehabilitation Department.

Several years later, on a reference having been made by the Inspecting Officer (P), Shri C.P. Spara, Settlement Commissioner, exercising the delegated powers of the Chief Settlement Commissioner, by his order, dated 13th February, 1962 (annexure C to the petition), set aside the original sale in favour of Ujagar Singh, cancelling his sale certificate, dated 26th June, 1957. This order was passed after notice to Ujagar Singh, but long before that he had ceased to have any interest in the property, as he had sold away the same to the petitioners, Rattan Singh and Gurbachan Singh. On coming to know of the cancellation of the sale, Rattan Singh and Gurbachan Singh, applied for revision under section 33 to the Central Government, but the same was rejected. Failing to get any redress, the petitioners have invoked the jurisdiction of this Court under Articles 226 and 227 of the Constitution.

The sole ground of attack against the order of the Chief Settlement Commissioner cancelling the sale in favour of Ujagar Singh is that such an order could not be passed without notice to the petitioners who were in possession of the property as owners under a sale made by Ujagar Singh in their favour much earlier. This contention, in my opinion, has considerable force. Admittedly, the impugned order

was passed by the Chief Settlement Commissioner under section 24 of the Displaced Persons (Compensation and Rehabilitation) Act, sub-section (3) whereof specifically provides:—

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“No order which prejudicially affects any person shall be passed under this section without giving him a reasonable opportunity of being heard.”

It is argued on behalf of the respondents that since the sale, which was the subject matter of the cancellation proceedings, was made in favour of Ujagar Singh only, he alone was entitled to a hearing, and the present petitioners, who are alienees from Ujagar Singh, were not entitled to any notice. I find myself unable to accept this argument as it is against the clear language of sub-section (3) of section 24. According to that provision, a person who is prejudicially affected by an order made under section 24 must be afforded an opportunity of being heard. Since the petitioners were in possession of the property as *bona fide* transferees from the original purchaser Ujagar Singh for valuable consideration, there can be no doubt that the order of cancellation of the sale prejudicially affected them. In fact, they were the only persons to whose prejudice the order operated as Ujagar Singh had ceased to have any interest in the property and had recovered from them the amount that he had paid to the Rehabilitation Authorities as purchase money. The words used in Sub-section (3) of section 24 is not an allottee or the person to whom proprietary rights had been granted, but, “any person” who may be prejudicially affected by the order, which must include, a *bona fide* transferee for valuable consideration. This provision has been advisedly made as the legislature was conscious of the fact that after the proprietary rights are granted to the allottees or the property sold away, there

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may be further transfers by the persons acquiring ownership rights, and it would be unjust to pass orders behind their back and to their prejudice especially when the original purchasers or the allottees may not feel interested in defending the allotments or sales.

A clue to the interpretation of sub-section (3) of section 24 is provided by sub-section (4) of that section, which provides that any person aggrieved by an order under sub-section (2) can apply for revision of the order to the Central Government. If it is held that the petitioners were not entitled to a notice of the proceedings taken by the Chief Settlement Commissioner for cancellation of the sale, it would mean that they would have no right to question his order by way of a revision under sub-section (4) of section 24 of the Act despite the fact that such an order operated entirely to their prejudice. This would be clearly contrary to the intention of the legislature as expressed in sub-section (4) of section 24 of the Act.

I, accordingly, find that the petitioners were entitled to notice of the proceedings before the Chief Settlement Commissioner, and since they had not been afforded an opportunity of being heard, the order of the Chief Settlement Commissioner, dated 13th February, 1962, is quashed. The petition is accepted with costs against both the respondents.

B.R.T.

REVISIONAL CRIMINAL

Before P. D. Sharma, J.

S. K. JAGNANI,—Petitioner

versus

THE STATE,—Respondent

THE STATE OF PUNJAB AND ANOTHER,—Appellants

Criminal Revision No. 105-D of 1963

1963

Sept., 27th.

Factories Act (LXIII of 1948)—Ss. 63 and 92—Ten workers found working during rest interval in contravention of S. 63—Occupier and Manager of factory—whether