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reached that the appellant was entitled to have a further opportunity given to him to show cause why that particular punishment should not be inflicted on him. There is, therefore, no getting away from the fact that Article 311(2) has not been fully complied with and the appellant has not had the benefit of all the constitutional protection and accordingly his dismissal cannot be supported. We, therefore, accept this appeal and set aside the order of the Single Judge and decree the appellant's suit by making a declaration that the order of dismissal passed by the Deputy Commissioner on December 17, 1951, purporting to dismiss the appellant from service was inoperative and that the appellant was a member of the service at the date of the institution of the suit out of which this appeal has arisen. The appellant will get costs throughout in all courts. He must pay all court-fees that may be due from him. Under Order XIV, Rule 7 of the Supreme Court Rules we direct that the appellant's counsel be paid his fees which we assess at Rs 250.

B.R.T.

CIVIL WRIT

Before Chopra, J.

JHANDA SINGH AND OTHERS,—*Petitioners.*

versus

CHIEF SETTLEMENT COMMISSIONER, PUNJAB, CHANDIGARH,—*Respondent.*

Civil Writ No. 881 of 1957.

1957

Dec., 13th

Interpretation of Statutes—Rule of ejusdem generis*—Scope and applicability of—Displaced Persons (Compensation and Rehabilitation) Rules, 1955—Clause (d) of Rule 102—Whether to be read* ejusdem generis *with the preceding clauses—Initial mistake in allotment—Such allotment, whether can be cancelled or altered under Rule 102(d)—Land Re-Settlement Manual—Chapter VIII, para 17—"Displaced landowner"—Meaning of—Rule 7—Penalty for*

undeserved possession—Whether can be imposed by the Managing officer.

Held, that the rule of *ejusdem generis* is not one of universal application. It is merely a rule of construction and as such it may be of no assistance when the intention of the Legislature is so plain as to require no resort to canons of construction. The rule is to be made use of only where the language of the statute under consideration is somewhat vague or uncertain. It will not be proper to follow the rule where to do so will defeat or impair the plain purpose of the Legislature. Nor can it be employed to restrict the operation of an Act within narrower limits than was intended by the law-makers.

Held, that the Managing Officer, while dealing with the property in the Compensation pool entrusted to him, has the authority to cancel any allotment or terminate any lease in respect of such property or to amend the terms thereof. The power is given to him in general terms by section 19, but it is to be exercised subject to Rules framed under the Act. The Rules relating to the power of cancellation, which derive their authority from the rule-making power given by the Act, must be read so as to harmonise with the power of cancellation under the Act itself. In view of the underlying object and the whole scheme of the Act and the provisions contained therein, clause (d) of Rule 102 cannot be read *ejusdem generis* with the preceding clauses. A Managing Officer has, therefore, an authority to cancel or alter an allotment on account of some initial mistake subsequently discovered.

Held, that "displaced landowner" mentioned in para 17 Chapter VIII of Land Re-Settlement Manual compiled by Shri Tarlok Singh, does not mean only a displaced person who died after his migration to India after the 1st of August, 1947. The allotment is to be made in favour of the person in whose name the land in Pakistan stands, even though he be already dead. It is immaterial whether he died before or after migrating to India.

Held also, that the penalty imposed for undeserved possession does not amount to "public dues" as defined by Rule 7 of the Rules and, therefore, it cannot be legally imposed by the Managing Officer.

Petition under Article 226 of the Constitution of India, praying that a writ of certiorari or prohibition be issued quashing, (a) the order to the effect that a consolidated cut be levied on the allotments of the petitioner, (b) imposing the penalty 8 times of land revenue on the petitioners for the period for which they held the excess allotment and further praying that pending decision of this petition, the dispossession of the petitioners and the realization of the penalty be stayed.

RAJINDAR NATH, for Petitioners.

LACHHMAN DASS KAUSHAL, Deputy Advocate-General, for Respondent.

ORDER

Chopra, J. CHOPRA, J.—This is a petition under Article 226 of the Constitution and it arises out of the following facts:

Sohan Singh, father of petitioners Nos. 1 and 2 and grand-father of petitioner No. 3, owned land in Bahawalpur State, now within the territories of Pakistan. Sohan Singh is alleged to have been murdered during the riots on 9th September, 1947, while he was still in Pakistan. The petitioners migrated to India. They submitted their claims in respect of the land which belonged to their father and would have been inherited by them. On the verification of their claims, the petitioners were allotted lands in their individual names, in three separate lots, in village Mangala, Tahsil Sirsa. The total area allotted to them was 88 Standard Acres 7½ Units. The Managing Officer, Jullundur,—*vide* his order dated 30th November, 1956, varied this allotment and reduced it by 33.2 Standard Acres, on the ground that since the land in lieu of which the allotment was made still stood in the name of Sohan Singh deceased, the allotment should have been made in the name of Sohan Singh and a consolidated

cut imposed. The excess area allotted to the petitioners, calculated on this basis, came to 32.2 Standard Acres and to that extent the allotment was cancelled. The Managing Officer further directed that rent at the rate of eight times the land-revenue be charged from the petitioners with respect to the excess area for the entire period of their undeserved possession. Against this order the petitioners went in appeal to the Assistant Settlement Commissioner, which was dismissed on 15th May, 1957. The appellate order was upheld by the Additional Settlement Commissioner in revision. The petitioners now challenge the order of cancellation of allotment and imposition of penalty on the grounds, (i) that it was made without due notice to the petitioners, and (ii)) that it was illegal and without authority.

The first ground of attack is not pressed by Shri Rajindar Nath, learned counsel for the petitioners. At every material stage of the case the petitioners were present and had full opportunity of representing their case. They went in appeal and revision and there, too, they were heard, personally or through their counsel.

On the second ground, it is submitted that the Managing Officer could cancel the allotment only as provided by Rule 102 of the Rules framed by the Central Government under section 40 of the Displaced Persons (Compensation and Rehabilitation) Act No. 44 of 1954, hereinafter to be referred as the Act and that the order in question is not covered by any of the provisions of that Rule. Subsection (1) of section 19 of the Act, which alone is relevant, says—

> "Notwithstanding anything contained in any contract or any other law for the time being in force but subject to any

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rules that may be made under this Act, the managing officer or managing corporation may cancel any allotment or terminate any lease or amend the terms of any lease or allotment under which any evacuee property acquired under this Act is held or occupied by a person, whether such allotment or lease was granted before or after the commencement of this Act."

Section 40 gives the rule-making power to the Central Government. In exercise of this power the Central Government framed rules known as "Displaced Persons (Compensation and Rehabilitation), Rules, 1955", hereinafter to be referred as the Rules. Rule 102 of these Rules, which relates to cancellation of allotments and leases, lays down—

"A managing officer or a managing corporation may in respect of the property in the compensation pool entrusted to him or to it, cancel an allotment or terminate a lease, or vary the terms of any such lease or allotment if the allottee or lessee, as the case may be—

(a) has sublet or parted with the possession of the whole or any part of the property allotted or leased to him without the permission of a competent authority, or

(b) has used or is using such property for a purpose other than that for which it was allotted or leased to him without the permission of a competent authority, or

(c) has committed any act which is destructive of or permanently injurious to the property, or

(d) for any other sufficient reason to be recorded in writing.

Provided that no action shall be taken under this rule unless the allottee or the lessee, as the case may be, has been given a reasonable apportunity of being heard."

The present is a case of mistake in the allotment as regards the area to which the petitioners were in fact entitled, and obviously it is not covered by clauses (a), (b) and (c) of the above Rule. The contention is that clause (d), on which alone reliance can be placed, is to be read as *ejusdem generis* to the foregoing clauses and, therefore, would not be applicable to the facts of the present case. To me, the contention appears to be without force. The rule of *ejusdem generis* is not one of universal application. It is merely a rule of construction and as such it may be of no assistance when the intention of the Legislature is so plain as to require no resort to canons of construction. The rule is to be made use of only where the language of the statute under consideration is somewhat vague or uncertain. It will not be proper to follow the rule where to do so will defeat or impair the plain purpose of the Legislature. Nor can it be employed to restrict the operation of an Act within narrower limits than was intended by the law-makers. As I read it, the Rule is free from any ambiguity or uncertainty. Every clause of it is separately given. After specifying three instances where an allotment or lease may be cancelled or terminated or its terms varied, the Rule proceeds to say that the same may be done "for any other sufficient reason". The object of the Act under which these Rules are framed, is to provide for the payment of compensation and rehabilitation grants to displaced persons. For this, a compensation pool is created. The compensation pool consists of the

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evacuee property acquired by the Central Government under section 12 of the Act, certain cash balances lying with the Custodian, etc. etc. A displaced person is to be paid, out of the compensation pool, the amount of net compensation determined under subsection (3) of section 7 as being payable to him, in any of the forms and manner set out in section 8. One of these modes is: "by sale to displaced person of any property from the compensation pool and setting off the purchase-money against the compensation payable to him". The common pool available at the hands of the Government fell short of the total loss suffered by the displaced persons and consequently the total amount of their claims. A cut at the approximate ratio which the common pool bore to the total amount of the claims, had, therefore, to be imposed on the allotment made or the compensation payable to a displaced person. The allotments were made with the basic idea that a displaced land-holder may get (subject to graded cuts) such lands out of the evacuee agricultural land which, in its extent, quality..... and other relevant features, bear some reasonable relation and correspondence to the lands left by him in Pakistan. To allow him to get something more than what was actually due would mean an improper reduction in the common pool, which would be against the policy of the Act. Under Rule 72 of the Rules, the Settlement Officer, while determining the compensation due to a displaced person and before transferring the land allotted to him in permanent ownership as compensation, may recommend an alteration in the allotment, if he finds that the allottee has secured an allotment in excess of that due to him or that he was not entitled to any allotment or that the allotment was obtained by means of fraud, false representation or concealment of material facts. The

Settlement Commissioner may pass such order as he deems fit on such recommendation. The Managing Officer, while dealing with the property in the compensation pool entrusted to him, has the authority to cancel any allotment or terminate any lease in respect of such property or to amend the terms thereof. The power is given to him in general terms by section 19, but it is to be exercised subject to the Rules framed under the Act The Rules relating to the power of cancellation which derive their authority from the rule making power given by the Act, must be read so as to harmonise with the power of cancellation under the Act itself. In view of the underlying object and the whole scheme of the Act and the provisions contained therein, I am not prepared to accept the contention that clause (d) of Rule 102 is to be read *ejusdem generis* with the preceding clauses and to hold that a Managing Officer had no authority to cancel or alter an allotment on account of some initial mistake subequently discovered.

It is then submitted that the order of the Managing Officer is erroneous on a point of law and also that the error is manifest on the face of the record. The argument is that since Sohan Singh died while still in Pakistan and the succession opened out to the petitioners before they migrated to India, the allotment could only be made in their names and a consolidated cut could not, therefore, be imposed. The question as to when and where Sohan Singh died is one of fact, and it cannot be agitated in these proceedings. The Managing Officer did act on the assumption that Sohan Singh died at the place and date alleged by the petitioners, but the appellate and revisional authorities regarded the matter as doubtful. They are all agreed that the claims of

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displaced persons are to be assessed on the basis of the entries in copies of *jamabandies* received from the West Punjab Government, and since the land in Pakistan still stood in the name of Sohan Singh and had not been mutated in those of the petitioners they arrived at the conclusion that the allotment could only be made in the name of the deceased land-holder. This was in accordance with the policy approved by the Joint Rehabilitation Board. It is to the effect that allotment of land to individuals should be made not on the basis of verified claims but on the basis of copies of *jamabandies* received from Pakistan. If any exceptions were to be made, the orders of the Financial Commissioner (Rehabilitation) were to be obtained and the matter was to be brought to the notice of the Government (Chapter III, Para 19 of the Land Resettlement Manual compiled by Shri Tarlok Singh). Questions of disputed title ordinarily were not to be gone into. This was in consideration of the stupendous task of rehabilitation with which the Government was confronted and which was intended to be completed within as short a period as possible. Para 17 of Chapter VIII of the same standard compilation says—

> "Even where a displaced land-holder in whose name land stands in the records received from West Punjab has died, the allotment is made in the name of the deceased. In the *fard taqsim*, therefore, the entry will be in the name of the deceased land-holder. Possession is ordinarily given to the heirs but there must be regular mutation proceedings before the entry in column 3 of the *fard taqsim* is altered in favour of the heirs."

I do not agree with Mr. Rajindar Nath that "displaced land-holder" in this Para means only a displaced person who died after his migration to India after the 1st August, 1947. A "displaced person" has been differently defined for the purposes of different enactments. There is nothing in the Para to restrict it to the definition given in any particular Act. The allotment is to be made in favour of the person in whose name the land in Pakistan stands, even though he be already dead. It is immaterial whether he died before or after migrating to India. I do not, therefore, see any illegality in the order either.

As regards the penalty, it is conceded by Shri Lachhman Dass, learned counsel for the respondents, that it did not amount "to public dues" as defined by Rule 7 of the Rules and, therefore, it could not be legally imposed by the Managing Officer. To that extent the order of the Managing Officer and those of the higher authorities are beyond their authority and jurisdiction.

In the result, the petition is accepted only to the extent that the order of imposition of penalty is quashed. Rest of the prayer is refused. No order is made as to costs.

K.S.K.

APPELLATE CIVIL.

Before Gosain, J.

PT. TIRATH RAM-LAL CHAND,—*Appellants.*

versus

M/S. MEHAR CHAND-JAGAN NATH,—*Respondents.*

Execution First Appeal No. 75-C of 1956.

1957

Dec., 16th

Displaced Persons (Compensation and Rehabilitation) Act (XLIV of 1954)—Sections 8 and 15—Compensation payable to a displaced person—Whether attachable in execution of a decree against him.