FULL BENCH

Before Inder Dev Dua, Shamsher Bahadur and R. S. Narula, JJ.

KHAN CHAND,—*Petitioner*

versus

STATE OF PUNJAB AND OTHERS,—*Respondents*

Civil Writ No. 396 of 1963

1966

March, 24th.

Punjab Security of Land Tenures Act (X of 1953)—S. 2(3) Second Proviso—Interpretation and scope of—Permissible area in the case of a displaced allottee—How to be determined—Conversion formula—Whether applies to displaced allottee—Interpretation of Statutes—Rules as to, stated—Provisos—Kinds and scope of—Conflict between the purview and proviso—How to be resolved.

Held, that the second proviso to sub-section (3) of section 2 of the Punjab Security of Land Tenures Act, 1953, contains a complete definition of "Permissible area" so far as the displaced allottees are concerned. No doubt further relief is given even to displaced persons by the first proviso and that is why the same has been put between the two otherwise independent and self-contained statutory provisions. The first proviso permeates on both sides. But no part of the purview has to be brought into the second proviso which is a complete code in itself and which forms an exception to the rule contained in the purview in all its material aspects. Interpreted in the right perspective of the object of rehabilitation of displaced allottees in whose case cut had already been applied while allotting land to them in lieu of the land left by them in Pakistan, the proviso lays down that if the allotment of a displaced person is in standard acres, the permissible area for him will be calculated in standard acres and if his allotment is in ordinary acres, the permissible area for him would be calculated in ordinary acres. The conversion formula, therefore, does not apply to displaced allottees.

Held, that one of the basic principles of interpretation of statutes is that it must be presumed that every word used in a section of a legislative enactment has been inserted with a purpose and some meaning must be assigned to it. The intention of having uselessly added surplus words or phrases should never be attributed to the Legislature. Another recognised principle of interpretation of statutes is that in order to give meaning to the clear and definite intention of the Legislature, some words may, in suitable cases, be read in the provisions to avoid reducing the provisions to an absurdity. Another principle is that every effort should be made by the Court to harmonise every part of the section and to avoid a construction which would lead to oddities, absurdities or anomalies.

Held, that, roughly speaking, provisos can be of three types. The effect of a proviso may be merely to except or take out of the purview a certain class or a certain contingency. In the second set of cases the object of the proviso may be only to qualify the purview. The third kind of provisos is the one usually known as a saving clause. In case the purview and the proviso cover the same field and the two are irreconcilable, the proviso is given its full effect against the purview as the proviso is said to be the last expressed intention of the Legislature.

Case referred by the Hon'ble Mr. Justice Inder Dev Dua by order, dated the 13th August, 1965 to a Division Bench for decision owing to the important question of law involved in the case. The Division Bench consisting of the Hon'ble Mr. Justice S. B. Capoor and the Hon'ble Mr. Justice Inder Dev Dua, by order, dated the 16th December, 1965, further referred the case for decision to a larger Bench. The case was finally decided by a Full Bench consisting of the Hon'ble Mr. Justice Inder Dev Dua, the Hon'ble Mr. Justice Shamsher Bahadur and the Hon'ble Mr. Justice R. S. Narula on the 24th March, 1966.

Petition under Articles 226 and 227 of the Constitution of India, praying that a writ of certiorari *or any other appropriate writ, order or direction be issued quashing the orders of respondent No. 2, and further praying that the dispossession of the petitioner from the area in dispute be stayed till the final disposal of this writ petition.*

CH. RUP CHAND, WITH SUBHASH CHAUDHARY, AND RAM RANG, ADVOCATES, for the Petitioner.

J. N. KAUSHAL, ADVOCATE-GENERAL WITH M. R. AGNIHOTRI AND B. S. BINDRA, ADVOCATES, for the Respondents.

ORDER OF THE FULL BENCH

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NARULA, J.—This judgment will dispose of a bunch of three writ petitions (C.W. No. 396 of 1963 — *Khan Chand* v. *State of Punjab, etc.*, C. W. No. 196 of 1963 — *Sidhu Ram* v. *State of Punjab, etc.*, and C. W. No. 1605 of 1963 — *Hari Chand and another* v. *State of Punjab, etc.*) in which common questions relating to interpretation and scope of the second proviso to sub-section (3) of section 2 of the Punjab Security of Land Tenures Act, 10 of 1953, hereinafter called the Ceiling Act, call for decision.

The facts giving rise to these cases are also somewhat similar. Main arguments have been addressed on the side of the petitioners by the learned counsel in *Khan Chand's* case. The brief facts of that writ petition may, therefore,

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be first stated. The petitioner is a displaced person from West Pakistan. In lieu of agricultural land left behind by him in Pakistan, the petitioner was allotted 137.22 Standard Acres equivalent to 330.40 ordinary acres of land in villages Kotli and Suchan, Tehsil Sirsa, District Hissar. Rights of permanent ownership of the said land had been conferred on the petitioner before 1953.

In proceedings for declaring surplus area of the petitioner under the Ceiling Act, the final order left only 100 ordinary acres of land as permissible area with the petitioner. The particular 100 ordinary acres of land left with the petitioner are admittedly equivalent to only 48.42 standard acres. The complaint of the petitioner is that by the impugned orders he has been illegally deprived of at least 1.58 standard acres of his holding contrary to the provisions of the Ceiling Act under which he must be left with at least 50 standard acres of land which is his statutory permissible area. In March, 1963, the petitioner invoked the extraordinary jurisdiction of this Court under Article 226 of the Constitution to quash the impugned orders of the Collector, Surplus Area, Sirsa and to restrain the respondents from dispossessing the petitioner from the extra land so as to leave him with 50 standard acres. The writ petition was admitted by the Motion Bench (Mehar Singh and Dua, JJ.) on 20th March, 1963 and dispossession of the petitioner was stayed. The writ petition has been contested by the State.

My learned brother, Dua, J., on August 13, 1965, referred this case to a Division Bench in view of the importance of the questions of law involved therein. When in pursuance of the orders of the learned Single Judge, the case came up before the Division Bench (S. B. Capoor and Dua, JJ.), it was ordered on December 16, 1965, that because of the various divergent views on the subject expressed in some earlier judgments of this Court and various orders of the Financial Commissioners, it was considered more appropriate if the writ petition is heard and decided by a still larger Bench. That is how this case has come up before us in Full Bench.

Sidhu Ram, petitioner in C.W. No. 196 of 1963, also a displaced person, was allotted 52 standard acres and 62 units of agricultural land in this State which area is

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equivalent to 174.62 ordinary acres. The petitioner had acquired the ownership of the said entire holding before the coming into force of the Ceiling Act. By order of the Collector Agrarian, Bhiwani, dated February 27, 1961 (annexure A), the petitioner's permissible area was determined as 100 ordinary acres which is equivalent to only 30.58 standard acres. The petitioner's appeal to the Commissioner, Ambala Division, having been rejected on July 30, 1962 (annexure C), and his revision petition having been dismissed by the Financial Commissioner on November 20, 1962 (annexure E), the petitioner came up to this Court under Article 226 of the Constitution on January 29, 1963, for quashing all the above-said orders of the authorities under the Ceiling Act and for restraining the respondents from dispossessing the petitioner from any land out of an area covered by 50 standard acres irrespective of whether such land exceeded 100 ordinary acres or not. While admitting the writ petition on February 7, 1963, the Motion Bench (Dulat and Capoor, JJ.), stayed the dispossession of the petitioner. This writ petition has also been contested by the State.

Khan Chand's case having been in the meantime referred to the Full Bench, this case was also directed by Jindra Lal, J. on 21st December, 1965, to be heard with C.W. No. 396 of 1963 by the Full Bench.

Two real brothers, Hari Chand and Nanak Chand are the petitioners in C.W. No. 1605 of 1963. The only material difference in their case is that the original allotment of land in their favour in village Alipur Barota, tehsil Fatehabad, district Hissar, in village Sheikhupura, tehsil and district Hoshiarpur and in village Bawani, tehsil Fatehabad, district Hissar, is stated to have been made in ordinary acres and not in standard acres. The allotment in ordinary acres according to the petitioners was of an area measuring 389.39 acres (ordinary). This allegation in para 1 of the writ petition has been specifically admitted in the corresponding paragraph of the written statement of the respondents dated nil which is supported by an affidavit of the Under Secretary to the Government, Punjab, Revenue Department, dated 26th March, 1965. In proceedings under the Ceiling Act, only 100 ordinary acres were declared to be the permissible area which happened in this case to be equivalent to 49.9 standard acres. The writ petition was admitted on 2nd September, 1963, by the Motion Bench

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(Falshaw, C.J. and A. N. Grover, J.) and was ordered to be heard with Civil Writ No. 196 and 113 of 1963. Dispossession of the petitioners from the disputed area was stayed meanwhile. This case has also been referred to the Full Bench by the order of Jindra Lal, J., dated 21st December, 1965.

The scheme and history of the Ceiling Act may first be noticed. The Punjab Tenants (Security of Tenure) Ordinance, 1950 was promulgated on 13th May, 1950. This ordinance was replaced by the Punjab Tenants (Security of Tenure) Act, 22 of 1950 on the 6th of November, 1950. Section 3 of the 1950 Act restricted the holding of any landowner to the "permissible limit". "Permissible limit" was defined in section 2(3) of that Act to mean "100 standard acres of land other than the land occupied by an occupancy tenant, and, where such 100 standard acres on being converted into ordinary acres exceeded 200 acres, such 200 ordinary acres". An explanation was added to the above-quoted definition of "permissible limit" in the ordinance and in the 1950 Act which is, however, not relevant for our purposes. "Standard acre" was defined in section 2(4) of the 1950 Act and the ordinance as "a measure of area convertible, with reference to quantity of yield and quality of soil, into ordinary acre of any class of land according to the prescribed scale". Subsequently, however, section 2(3) of the 1950 Act was amended by the President's Punjab Tenants (Security of Tenure) Amendment Act, V of 1951 so as to substitute therein 50 and 100 standard and ordinary acres for 100 and 200 standard and ordinary acres respectively. The 1950 Act as subsequently amended was then repealed and replaced by the Ceiling Act. The scheme of definition of "permissible area" in the Ceiling Act as passed in 1953 was substantially changed. The quantitative change consisted of substitution of 30 standard acres and 60 ordinary acres in place of 50 standard acres and 100 ordinary acres, respectively in the 1950 Act as amended in 1951. The definition of "Standard Acre" in section 2(5) of the 1953 Act was in the following words:—

> "(5) "Standard Acre" means a measure of area convertible into ordinary acres of any class of land according to the prescribed scale with reference to the quantity of yield and quality of soil."

The definition of "permissible area" underwent further amendment by section 3 of the Punjab Security of Land

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Tenures (Amendment) Act, 11 of 1955. In the Ceiling Act as amended upto date, the definition of "permissible area", which is now relevant for the decision of these cases, is in the following words:—

"Permissible area" in relation to a land-owner or a tenant, means thirty standard acres and where such thirty standard acres on being converted into ordinary acres exceed sixty acres, such sixty acres:

Provided that—

(i) no area under an orchard at the commencement of the Act, shall be taken into account in computing the permissible area:

(ii) for a displaced person—

(a) who has been allotted land in excess of fifty standard acres, the permissible area shall be fifty standard acres or one hundred ordinary acres, as the case may be,

(b) who has been allotted land in excess of thirty standard acres, but less than fifty standard acres, the permissible area shall be equal to his allotted area,

(c) who has been allotted land less than thirty standard acres, the permissible area shall be thirty standard acres, including any other land or part thereof, if any that he owns in addition.

"*Explanation.*—For the purposes of determining the permissible area of a displaced person, the provisions of proviso (ii) shall not apply to the heirs and successors of the displaced persons to whom land is allotted."

Before the merger of the territories of the Patiala and East Punjab States Union with the Punjab under the States Reorganisation Act a similar enactment had been passed for that area in 1955. This was the Pepsu Tenancy

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and Agricultural Lands Act, 13 of 1955. "Permissible limit" in section 3(1) of that Act is defined as below:—

"(1) 'Permissible limit' for the purposes of this Act means thirty standard acres of land and where such thirty standard acres on being converted into ordinary acres exceed eighty acres, such eighty acres:

Provided that in the case of an allottee,—

(a) who has been allotted land exceeding forty standard acres, the permissible limit shall be forty standard acres and where such forty standard acres on being converted into ordinary acres exceed one hundred acres, such one hundred acres; and

(b) who has been allotted land exceeding thirty standard acres but not exceeding forty standard acres, the permisible limit shall be equal to the area of land alloted to him.

"*Explanation.*—For the purposes of determining the permissible limit of an allottee, the provisions of the proviso shall not apply to the heirs and successors of the allottee to whom land is allotted."

In short what the authorities under the Ceiling Act have held in all these cases is that on a proper interpretation of clause (a) of the second proviso to sub-section (3) of section 2 of the Ceiling Act, the permissible area of land to be left with a displaced person has to be either 50 standard acres or 100 ordinary acres whichever is less except in cases covered by clauses (b) and (c) of that proviso. On the other hand, the contention of the petitioners is that the minimum permissible area to be left with a displaced person whom clause (a) applied is 50 standard acres and that the question of its further reduction does not arise. Their argument is that if the allotment of land to a displaced person is in terms of ordinary acres and the allotment is of more than 100 acres, the permissible area shall be 100 acres; and that where the allotment is in standard acres and is more than 50 such standard acres, the permissible area for such a displaced person shall be 50 standard acres. This contention is based on the use of the expression "as the case may be" at the end of the provision contained in clause (a) of the above-said proviso,

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which expression does not exist in the purview of sub-section (3) of section 2. It is further pointed out by the learned counsel for the petitioner that in contra-distinction to the provisions of sub-clause (a) of the second proviso contained in the Ceiling Act, the conversion formula contained in the purview of this sub-section has been adopted even in the provision meant for displaced persons in the Pepsu Act.

Chaudhri Rup Chand, counsel for the petitioner in the main case, referred us to the judgment of their Lordships of the King's Bench in *Bluston and Bramley, Ltd.* v. *Leigh* (1), and to the judgment of the Commission of Appeals of Texas (U.S.A.) in *Hooker et al.* v. *Foster et al.* (2). In *Bluston's case,* it was held that the effect of the words "as the case may be" was that sub-section (2) of section 326 of the English Companies Act, 1948, applied only if notice of a petition were followed by an order, or notice of a meeting were followed by a resolution for voluntary winding up. The relevant part of sub-section (2) of section 326 of the said English Act is in the following terms:—

> "... ... ... where under an execution in respect of a judgment ... ... the goods of a company are sold ... ... the sheriff shall deduct the costs of the execution from the proceeds of the sale ... ... and retain the balance for fourteen days, and if within that time notice is served on him of a petition for the winding up of the company having been presented or of a meeting having been called at which there is to be proposed a resolution for the voluntary winding up of the company and an order is made "or a resolution is passed, as the case may be. for the winding up of the company, the sheriff shall pay the balance to the liquidator, who shall be entitled to retain it as against the execution creditor."

In *Hooker's case* the expression "as the case may be" as used in article 3070 of Vernon's Annotated Texas Statutes came up for construction. The said article is in the following words:—

> "In any case provided for in the preceding article, the county attorney of the county, or if there is no

(1) L.R. (1950)2 K.B. 548.

(2) 1, South Western Reporter 276.

> county attorney, the district attorney of the district or the mayor of the city, town or village, or the officer, who declared the official result of said election, or one of them, as the case may be, shall be made the contestee, and shall be served with notice and statement, and shall file his reply thereto as in the case of a contest for office;" etc.

It was held that but for the use of the words "as the case may be" in article 3070 (reproduced above) in any case of a contest any one of the persons named in the statute could be made the contestee, for they are all used in the alternative with no preference whatever indicated. It was observed that in a contest at an election held throughout a county, or even a part of the county or a precinct of the county, wherein the county attorney is made the legal adviser of the county, such officer could be named as contestee and similarly if the contest of an election be held within an incorporated city, town or village, then the mayor could be named as contestee and that it was to those two classes of contests that the words "as the case may be" had pertinent reference.

I do not, however, think that any assistance can be drawn from either of those cases as to the effect and meaning of the expression "as the case may be" as used in the provision in dispute. Each expression used in a statute has to be interpreted in its own particular context.

At this stage, I may notice the various decisions of some of the Financial Commissioners and the various judgments of different Benches of this Court concerning the point in issue in these petitions. First, in order of time, is the judgment of Shri B. S. Grewal, Financial Commissioner, Punjab, dated September 7, 1960 in *Mahia and others* v. *Dalip and others* (3). This case did not relate to a displaced person and so the question of interpretation or scope of the proviso in dispute did not arise therein. While interpreting the purview of sub-section (3) of section 2 of the Ceiling Act, the learned Financial Commissioner held that for the purposes of determining "permissible area" the reckoning must first be in terms of 30 standard acres and that if the total holding of a landowner

(3) 1961 L.L.T. (Revenue Rulings) 11.

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does not exceed 30 standard acres but exceeds 60 ordinary acres, even then the landowner cannot be deprived of the excess merely because the conversion results in an excess of ordinary acres. According to that decision the Ceiling Act allows a landowner a permissible area of 30 standard acres and there is no warrant or justification for diminishing it further merely because in some cases a smaller holding when converted into ordinary acres exceeds 60.

The question decided by the Financial Commissioner in *Mahia's case* has since been settled by a Division Bench of this Court (G. D. Khosla, C.J. and P. D. Sharma, J.) on 17th August, 1961 in *Nathu* v. *The State of Punjab and another* (4). G. D. Khosla, C.J. (P. D. Sharma, J., concurring) held in that case that on a correct interpretation of the purview of sub-section (3) no one can be allowed to keep more than 30 standard acres, however inferior the land, which he holds and that the total holding is in no case to exceed 60 ordinary acres even if in terms of standard acres the holding falls to be less than 30 standard acres. In other words two outside limits have been held to have been prescribed by the opening part of sub-section (3) of section 2 of the Ceiling Act for the permissible area and according to the above-said judgment of the Division Bench the permissible area governed by that part of the section would be 30 standard acres or 60 ordinary acres whichever may be less. The correctness of the decision of the Division Bench in *Nathu's case* has no more been attacked before us. We are not, however, directly concerned with the meaning, scope and interpretation of the purview of section 2(3) of the Ceiling Act which unequivocally and clearly contains the conversion formula and most unambiguously provides for both the limits referred to by Khosla, C.J. in *Nathu's case* at least in cases where the holding is not less than 30 standard acres.

In chronological order, the next decision is again of Shri B. S. Grewal, Financial Commissioner, Punjab, dated September 28, 1961 in *Ram Chander* v. *The Punjab State* (5). This case related to a displaced landowner. The learned Financial Commissioner held in *Ram Chander's case* that for a displaced landowner also the permissible area must be reckoned first in standard acres and if those 50 standard acres on conversion into ordinary acres exceed

(4 1964 L.L.T. (Revenue Rulings) 56.
(5) 1962 L.L.T. (Revenue Rulings) 10.

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100 ordinary acres then and then only can such a land-owner be pinned down to 100 ordinary acres only even though such 100 ordinary acres when converted back into standard acres are found to be less than 50 standard acres. The learned Financial Commissioner thought that the only difference which has been made by the second proviso in favour of a displaced person in contradistinction to a non-displaced person whose case is covered by the purview of that sub-section is that the "50 standard acres" and "100 ordinary acres" have been substituted in case of displaced persons for "30 standard acres" and "60 ordinary acres" for other persons. It was further held in that case that though the presence of the word "or" in clause (a) of the second proviso gives a superficial suggestion of a choice, in fact there was no such choice because of the addition of the words "as the case may be" at the end of that clause. Mr. Grewal held:—

> "The correct and logical interpretation would appear to be that while a non-displaced person is entitled to 30 standard acres as his permissible area, a displaced person is entitled to 50 standard acres, and only if those 50 standard acres on being converted into ordinary acres exceeds 100 ordinary acres, then 100 ordinary acres. In other words, the permissible area even for a displaced person must first be reckoned in standard acres. That would be in consonance with the spirit of sub-section (3). Merely because the proviso is worded slightly differently cannot be construed to mean that it extends the scope of interpretation of the main sub-section for displaced persons. Proviso (ii) referred to above enhances the permissible area of a displaced person, but does not enlarge the scope in any other manner."

Then came the judgment of my learned brother, Shamsher Bahadur, J., dated February 12, 1963, in *Harcharan Singh* v. *The Punjab State and others* (6). That was also a case of a displaced person. Harcharan Singh owned 70 standard acres and 12 units which was equivalent to 104 Acres, 2 Kanals and 15 Marlas of land. Calculating the holding in ordinary acres the surplus area declared by

(6) I.L.R. (1963) 1 Punj. 875=1963 Current Law Journal 270.

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the Collector in Harcharan Singh's case was found to be 4 Acres 2 Kanals and 15 Marlas. By a subsequent order the Collector reversed the process, reckoned the standard acres of land owned by Harcharan Singh and on this calculation found that 20 standard acres and 12 units of his land were surplus. Harcharan Singh impugned the correctness of the subsequent decision of the Collector by way of a writ petition to this Court. My learned brother, Shamsher Bahadur, J., dismissed the writ petition on the finding that the Collector had construed the relevant statutory provision correctly on the second occasion. The relevant observations in the judgment were in the following words:—

> "I take sub-clause (a) of clause (ii) of the proviso to mean that if the holding is in terms of standard acres, it shall be the land in standard acres which would be taken into account in computing the surplus area and it is only when standard acreage has not been computed that the holding may be reckoned in terms of ordinary acres. It seems that the allotment in favour of the petitioner was made in terms of standard acres and it is the standard acreage which should be taken into account. The words "as the case may be" in the end of sub-clause (a) of clause (ii) of the proviso provide a key to the intention of the legislature. When the acreage is in terms of standard acres this will govern the calculation of permissible area. It may be, as in this case, that the equivalent in ordinary acreage of standard acres is also mentioned in the order of the Collector, but this would not entitle the petitioner to choose the standard of acreage most suitable to him. Standard acreage is mentioned first and ordinary acreage later in sub-clause (a) of clause (ii) of the proviso."

The learned counsel for the petitioners have canvassed for the view which found favour with the learned single Judge in *Harcharan Singh's case* being adopted as the correct interpretation of clause (a) of the second proviso in dispute. The learned Advocate-General has, however, argued that the said decision needs reconsideration in view of the scheme and object of the Ceiling Act and also because, according to the Advocate-General, all permanent

allotments to displaced persons were in standard acres and there was no such allotment in ordinary acres. We do not think, it is open to the State counsel to urge the last part of his above-said argument in the face of the fact that the allegation of the petitioners in *Hari Chand's case* regarding the initial allotment in their favour having been in ordinary acres has been expressly admitted in the written statement of the authorities under the Ceiling Act. The question of the scheme and object of the Act will be dealt with in a later part of this judgment.

Shri R. S. Randhawa, Financial Commissioner, Revenue, Punjab, had also an occasion to deal with this proposition in his order dated February 27, 1963 in *Harjit Singh* v. *The Punjab State* (7). The learned Financial Commissioner held in that case that it could not have been the intention of the legislature that the permissible limit in the case of a displaced landowner could exceed 100 ordinary acres if the land converted into ordinary acres exceeds 100 ordinary acres. In other words he brought the spirit of the purview of sub-section (3) into clause (a) of the second proviso to that sub-section also. According to this decision both the limits i.e., one in standard acres and the other in ordinary acres must be applied to the permissible area of a displaced person in the same manner as was applied in the case of a non-displaced person governed by the purview of sub-section (3) of section 2 of the Act in *Nathu's case.*

A somewhat similar question then came up for decision before a Bench of two Financial Commissioners (Sarvshri B. S. Grewal and Saroop Krishan) in *Basakha Singh* v. *The Punjab State* (8). The learned Financial Commissioners held that the ceiling of 100 ordinary acres applies in the case of all allottees under section 3(1) (b) of the Pepsu Tenancy and Agricultural Lands Act. In this case Basakha Singh was a displaced person. His holding was 38.92 standard acres which in terms of ordinary acres was a little over 125 acres. He claimed that under the Pepsu Act he was entitled to retain the entire allotment as his permissible area as the same did not exceed 40 standard acres though on conversion it would exceed 100 ordinary acres. This plea of Basakha Singh had been rejected

(7) 1963 L.L.T. (Revenue Rulings) 18.
(8) 1964 L.L.T. (Revenue Rulings) 77.

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by the Commissioner, Patiala Division on the basis of the decision in *Harjit Singh's case* (7). Relying on the Division Bench judgment of this Court in *Nathu's case* the learned Financial Commissioners upheld the decision of the Commissioner, Patiala Division and dismissed Basakha Singh's revision petition.

Why I have particularly referred to the above-said decision of the Bench of two Financial Commissioners in spite of the said decision being based on a different clause of the relevant section is because the decision of the two Financial Commissioners in *Basakha Singh's case* was the subject-matter of a writ petition to this Court which petition was disposed of by the judgment of H. R. Khanna, J., dated 15th December, 1965 in *Basakha Singh* v. *The State of Punjab and others* (9). The learned Single Judge accepted the writ petition of Basakha Singh and reversed the orders of the Financial Commissioners with the following observations:—

> "Bare perusal of clause (b) goes to show that where an area allotted to a displaced person exceeds 30 standard acres but does not exceed 40 standard acres, the permissible limit in his case would be equal to the area of the land allotted to him. It is nowhere provided in clause (b) that in order to arrive at the figure of permissible limit the area allotted should be converted into ordinary acres and in case the area after such conversion exceeds some prescribed limit it should be held to be beyond the permissible limit. On the contrary, the language of clause (b) makes it plain that if the area allotted is between 30 and 40 standard acres, the question of converting the area from standard acres into ordinary acres would not arise and the permissible limit shall be equal to the area of land allotted to him. The wordings of clause (b) of the proviso in this respect are substantially different from those of the substantive part of sub-section (1) of section 3 as also those of clause (a) of the proviso to that sub-section, according to which the permissible limit of the land when converted into

(9) 1966 Current Law Journal 158.

ordinary acres cannot in one case exceed 80 such acres and in the other 100 such acres. The above difference has a significance and it cannot be ignored. The substantive part of sub-section (1) of section 3, and clause (a) of the proviso, to that sub-section contemplate that in order to arrive at the figure of permissible limit we have to take into account the area of land measured in terms of standard acres as well as in terms of ordinary acres. As against that, in cases falling under clause (b) of the proviso the only relevant consideration is the area of land in terms of standard acres and not the area on conversion into ordinary acres. It no doubt looks odd that in the case of displaced persons to whom land measuring more than 40 standard acres has been allotted the permissible limit is 100 ordinary acres if the land converted into ordinary acres exceeds 100 such acres, while no such ceiling of ordinary acres is placed in the case of displaced persons to whom an area of less than 40 standard acres has been allotted, the fact all the same remains that it is the language used by the legislature which has resulted in this oddity and it is for the legislature, if it so deems proper, to remove and rectify this oddity. This Court can gather the intention of the Legislature only from the language employed by it, and if the language used is clear and unequivocal, it is not open to the Court to assume in the language an ambiguity where none exists and to read in it words which find no mention therein, and on that basis to stretch out a construction which otherwise is not warranted by the language of the legislature.

Apart from the above, I find that the provisions of the Pepsu Tenancy and Agricultural Lands Act are of exproprietary character as they have been enacted to deprive a person of his land in excess of the prescribed limit. In view of the exproprietary nature of those provisions, they should, in my opinion, be construed strictly and no area of the land vesting in a person should be declared to be surplus unless the cases strictly falls within the purview of the provisions of the Act.

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There is nothing in clause (b) referred to above, which either expressly or by necessary implication shows that an area not exceeding 40 standard acres can be held to be beyond the permissible limit if on its conversion into ordinary acres, it exceeds 100 such acres."

According to proviso (b) to sub-section (1) of section 3 of the Pepsu Act in the case of an allottee who has been allotted land exceeding 30 standard acres but not exceeding 40 standard acres the permissible limit has to be equal to the area of the land allotted to him. The words "as the case may be" could not possibly find place in the above-mentioned proviso in the Pepsu Act. It is, however, significant that the conversion formula is not mentioned in the said proviso at all and still the Financial Commissioners had imported the same into proviso (b) to bring the said proviso in accord with the spirit of the purview of sub-section (1) of section 3 of the Pepsu Act. This extended interpretation did not find favour with Khanna, J.

In *Amolak Raj* v. *The State of Punjab* (10), Shri Saroop Krishan, Financial Commissioner, Planning, held on March 31, 1965, that the permissible area of a displaced person, who has been allotted land in excess of 50 standard acres, has to be taken as 50 standard acres or 100 ordinary acres whichever is less. The learned Financial Commissioner observed that the ceiling of 100 ordinary acres should be taken to apply in the case of even those displaced persons who have been allotted land between 30 standard acres and 50 standard acres. In short the view adopted by Shri Saroop Krishan in *Amolak Raj's case* is the same which he had adopted while sitting with Shri B. S. Grewal in *Basakha Singh's case.* The decision of the Financial Commissioner in the *case of Amolak Raj* is the subject-matter of a pending writ petition i.e.., C.W. No. 1071 of 1965, which has been admitted by the Motion Bench (Falshaw, C.J. and Harbans Singh, J) on 23rd April, 1965.

A view directly opposed to that of the other two Financial Commissioners (Sarvshri B. S. Grewal and Saroop Krishan) was adopted by Shri A. L. Fletcher, Financial Commissioner, Revenue, Punjab, in his judgment dated May 4, 1965 in *Rup Ram* v. *Smt. Kako Bai* (11).

(10) 1965 L.L.T. (Revenue Rulings) 73.
(11) 1965 Punjab Law Journal 65.

Shri A. L. Fletcher, held that under section 2(3) (ii) (b) of the Ceiling Act, the permissible area for a displaced person, who has been allotted land in excess of 30 standard acres but less than 50 standard acres, is equal to the area allotted. The learned Financial Commissioner held that in the relevant provisions there was no question of any limit in terms of ordinary acres. In other words, he held that for a displaced person who has been allotted between 30 and 50 standard acres, the permissible area is the area allotted whatever may be its value in ordinary acres.

Then comes the judgment of D. K. Mahajan, J., dated October 14, 1965 in *Rawat* v. *State of Punjab and others* (12). Under section 18 of the Ceiling Act a right has been conferred on certain tenants to purchase the land of their landowners. Such a right does not, however, vest in a tenant of a small landowner. "Small landowner" is defined in section 2(2) of the Ceiling Act as one whose entire land in the State of Punjab does not exceed the "permissible area". In *Rawat's case* the landowners were displaced persons and had been allotted land measuring 50.55 standard acres equal to 133.61 ordinary acres. Out of that holding an area measuring 2.81 ordinary acres equal to 1.83 standard acres was acquired by the Government thus leaving with the landowners only 48.72 standard acres which was equivalent in that case to 130.80 ordinary acres. If the conversion formula was to be applied, the landowners could not be described to be small ones as their holding exceeded 100 ordinary acres. If, however, for determining the permissible area of the displaced landowners the standard acreage alone was taken into account, they were obviously small landowners as their holding amounted to only 48.72 standard acres. The application of Rawat, the tenant, under section 18 of the Ceiling Act for purchasing the tenanted land was dismissed by the authorities under the Act. He then came to this Court by way of a writ petition. Mahajan, J. dismissed the writ petition by interpreting clause (a) of the second proviso to subsection (3) of section 2 of the Ceiling Act to the effect that the measure of ownership is fixed in the said clause in standard acres and that a reference has to be made to ordinary acres only when the calculation has not been made in standard acres. In adopting that view Mahajan, J.,

(12) 1965 L.L.T. (Revenue Rulings) 161.

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followed the judgment of my learned brother, Shamsher Bahadur, J. in *Harcharan Singh's case* to a substantial extent.

The last decision to which our attention has been invited in these cases is again of Shri A. L. Fletcher, Financial Commissioner, Revenue, Punjab. This is his judgment dated January 1, 1966 in *Jas Ram* v. *Siri Chand and others* (13). That case also arose out of the application of a tenant under section 18 of the Ceiling Act and the question which called for decision was whether the landowners, whose net allotment at the relevant time was of 48 standard acres and 7 units, which on conversion came to more than 100 ordinary acres, were small landowners or not. The learned Financial Commissioner held that the landowners were entitled to the benefit of proviso (i) as well as proviso (ii) and were, therefore, entitled to exclude the orchard area as also to the benefits conferred by the second proviso on displaced landowners. It was specially held by Shri Fletcher in that case that the measure of ownership is to be fixed in standard acres and that there being no ambiguity in section 2(3) (ii) (b) of the Ceiling Act, the provision must be given the meaning which the words clearly state. The Financial Commissioner refused to import the conversion formula from the purview of subsection (3) into the second proviso to that sub-section.

No other decided case relating to this matter has been referred to before us. Three interpretations of clause (a) of the second proviso to sub-section (3) of section 2 of the Ceiling Act appear to be possible. First is the one which was all along adopted by Shri A. L. Fletcher, Financial Commissioner and which has also found favour with D. K. Mahajan, J. in *Rawat's case* and with my learned brother, Shamsher Bahadur, J. in *Harcharan Singh's case*. This is the interpretation which is canvassed before us on behalf of the petitioners. It is argued that the different phraseology adopted by the Legislature in the relevant proviso is the result of a conscious and deliberate departure from the expression used in the purview of that sub-section and is also in contra-distinction to the corresponding provision contained in proviso (a) to sub-section (1) of section 3 of the Pepsu Act and that, therefore, the conversion formula which has been deliberately omitted by the Legislature,

(13) 1966 Punjab Law Journal 68.

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should not be imported into the relevant proviso by the Court. Some kind of support is sought to be derived for this interpretation by the presence of the word "or" and the addition of the expression "as the case may be" in the relevant clause. The resultant injustice which might result to some of the displaced persons by adopting the other interpretation is also called in aid by the petitioners. The words "as the case may be" are sought to be attached by the learned counsel for the petitioners to the nature of allotment. The interpretation opposed to that canvassed by the petitioners is also stated to come in conflict with the object of the proviso, i.e., to give maximum possible relief to displaced persons. An additional argument advanced on behalf of the petitioners in support of this contention is that it is obvious from clause (b) of the second proviso that upto a maximum of 50 standard acres the holding of a displaced person has not to be diminished at all. It is argued that the interpretation sought to be placed on the relevant clause (clause (a)) on behalf of the State authorities would result in disharmony between clauses (a) and (b) and may lead to absurd results. The argument is that though two limits have been imposed on non-displaced persons, only one limitation of maximum area is imposed on displaced persons for whom the permissible area is fixed at a higher figure and that so long as the land holding of a displaced person does not exceed 50 standard acres he is not to be touched and that the question of looking to the actual area in ordinary acres should arise in the case of a displaced person only where his holding in standard acres is more than 50 and even then only to such an extent as to leave at least 50 standard acres with the displaced allottee. The provisions for reducing the land owned by a displaced person by fixing the permissible area and for taking away from him the resultant surplus area are argued to be of an expropriletary character and are, therefore, said to be liable to the strictest possible interpretation against the State and to a beneficial interpretation in favour of the displaced person. It has been further submitted on behalf of the petitioners that the judgment of the Division Bench in *Nathu's case* does not at all stand in the way of this interpretation as that judgment is based on the clear and unambiguous phraseology used in the opening part of section 2(3) of the Ceiling Act.

The second possible interpretation, which has been supported by the learned Advocate-General is that the

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spirit and blood of the purview should be allowed to run through the entire section, that considering the scheme and objects of the Act it should be remembered that the maximum permissible area has been prescribed to be 100 ordinary acres for every one including displaced persons and that all other rules and criteria contained in section 2(3) of the Ceiling Act are only for the purpose of fixing the permissible area within the said outside limit of 100 ordinary acres and that if this interpretation is adopted for all the clauses of the proviso which after all is only a part of the main section every possible disharmony is avoided. Support is sought by the Advocate-General in this connection from the following observations in the judgment of their Lordships of the Supreme Court in *Atma Ram* v. *State of Punjab* (14):—

> "The Act seeks to limit the area which may be held by a landowner for the purpose of self-cultivation, thereby releasing surplus area" which may be utilised for the purpose of resettling ejected tenants, and affording an opporunity to the tenant to become the land-owner himself on payment of the purchase price which, if anything, would be less than the market value. It, thus, aims at creating what it calls a class of "small land-owners", meaning thereby, holders of land not exceeding the "permissible area"— (S. 2(2)). The utmost emphasis has been laid on self-cultivation which means "cultivation by a land-owner either personally or through his wife or children, or through such of his relations as may be prescribed, or under his supervision"— (S. 2(9))."

> "The Punjab Legislature, realising that the interest of a tenant was much too precarious for him to invest his available labour and capital to the fullest extent so as to raise the maximum quality and quantity of money crops or other crops, naturally, in the interest of the community as a whole, and in implementation of the Directive Principles of State Policy, thought of granting longer tenures, and as we have seen above, the period has been progressively increased until we arrive at the stage of the legislation now impugned, which proposes to create a large

(14) A.I.R. 1959 S.C. 519.

body of small land-owners who have a comparatively larger stake in the land, and consequently, have greater impetus to invest their labour and capital with a view to raising the maximum usufruct out of the land in their possession."

"The Act modifies the landowner's substantive rights, particularly in three respects, as indicated above, namely, (1) it modifies his right of settling his lands on any terms and to any one he chooses; (2) it modifies, if it does not altogether extinguish, his right to cultivate the "surplus area" as understood under the Act; and (3) it modifies his right of transfer in so far as it obliges him to sell lands not at his own price but at a price fixed under the statute, and not to any one but to specified persons in accordance with the provisions of the Act, set out above."

The third possible interpretation of the relevant clause, to which reference has been made at the hearing is that it confers a choice on the displaced person to select either of the two limits, i.e., either in standard acres or in ordinary acres, as the case may be. The third interpretation appears to have been canvassed before a Division Bench of this Court (Dulat and Mahajan, JJ.) in C.W. No. 1313 of 1962—*Sham Lal Saluja and others* v. *The State of Punjab and others*. The Division Bench only made a *prima facie* observation about there being some force in the contention but did not decide the matter. The relevant observations in the judgment of the Division Bench dated 6th April, 1965 in *Sham Lal Saluja's case* are to the following effect:

"The only other contention advanced before us is that a claim was made to the Collector that he should declare only the area above 100 ordinary acres as surplus, whereas the Collector has declared area above 50 standard acres as surplus. The contention of the learned counsel is that under the definition of "permissible area" in section 2(3) the choice rests with the owner. The contention of the learned counsel seems to have some force, but the real difficulty that lies in his way is that this contention was not pressed either before the Collector or before the

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Financial Commissioner. The learned counsel draws our attention to the grounds of claim made before the Collector as well as to the grounds of revision before the Financial Commissioner. It is no doubt true that this point was raised, but from the orders of the Collector and the Financial Commissioner, it appears that the matter was not pressed to its logical conclusions."

Some arguments have been addressed in these cases by both sides as to the scope of a proviso in a statute. The learned counsel for the petitioners has referred in this connection to the judgments of the Supreme Court in *The Commissioner of Income-tax, Mysore, Travancore-Cochin and Coorg, Bangalore, etc.,* v. *The Indo Mercantile Bank Ltd., etc.* (15), and in *Shah Bhojraj Kuverji Oil Mills and Ginning Factory* v. *Subhash Chandra Yograj Sinha* **(16).** Reference has also been made by the learned counsel for the petitioners to the judgment of the Madras High Court in *Thiagesar Dharma Vanikam, Madras* v. *Commissioner of Income-tax, Madras* (17). On the other hand the learned Advocate General has referred to a judgment of the Andhra Pradesh High Court in *Jummarlal Surajkaran* v. *Commissioner of Income-tax, Andhra Pradesh* (18).

In *The Commissioner of Income-tax, Mysore, Tranvancore-Cochin and Coorg, Bangalore, etc.* v. *The Indo Mercantile Bank Ltd., etc.* (15), the Supreme Court held that the proper function of a proviso is that it qualifies the generality of the main enactment by providing an exception and "taking out as it were, from the main enactment, a portion which, but for the proviso would fall within the main enactment". Ordinarily it is foreign to the proper function of a proviso to read it as providing something by way of an addendum or dealing with a subject which is foreign to the main enactment. Their Lordships of the Supreme Court further held in that case that it is a fundamental rule of construction that a proviso must be considered with relation to the principal matter to which it stands as a proviso. A proviso is, therefore, to be construed harmoniously with the main enactment. A proviso carves out an exception to the purview. The normal function of a proviso is to deal with a case which would, but for the proviso fall within the general language

(15) 1959 S.C. 713.
(16) A.I.R. 1961 S.C. 1596.
(17) A.I.R. 1964 Mad. 483.
(18) (1963)47 I.T.R. 809.

of the purview. In *Shah Bhojraj Kuverji Oil Mills and Ginning Factory's case*, it was held that a proviso is added as a general rule to qualify or create an exception to what is in the main enactment and that ordinarily, a proviso is not interpreted as stating a general rule. Their Lordships of the Supreme Court further held in that case that provisos are often added not as exceptions or qualifications to the main enactment, but as saving clauses in which cases they will not be construed as controlled by the main section. The argument of the learned counsel for the petitioners is that the second proviso to sub-section (3) of section 2 of the Ceiling Act is not controlled by the purview of sub-section (1) of section 2 as it is in the nature of a saving clause. Saving clauses are normally introduced into repealed acts to safeguard rights which, but for the savings, would be lost. It cannot, however, be disputed that there are cases in which a separate provision different from the purview of a section in a statute is added in the shape of a proviso to provide for a particular contingency or a class of persons, who would also be normally covered, but for the proviso, by the purview. In *Thiagesar Dharma Vanikam's case* it was held by the Division Bench of the Madras High Court that it is not an invariable canon of construction that a proviso in a statute should necessarily be read as a qualification or limitation upon the effect of the main enactment and that the function of a proviso is very often to deal with an excepted class of cases, which may be within the principal enactment, but for it. The learned Judges of the Madras High Court held that it would not be correct to say that a proviso should always be assumed to be and read as an exception. A substantive provision may also appear in the form of a proviso and if the clear meaning of the proviso establishes that it is not a qualifying clause of the main provision, the Court is bound to give effect to the proviso without straining to attribute to it the character of a segment in the main enactment. The Madras High Court further held that the meaning of a proviso should be derived from its own terms without any predilection that the subject-matter of the proviso is already covered by the main provision and that its object is to exclude something out of that main provision. The learned counsel for the petitioners has strongly relied on this judgment of the Madras High Court and has argued that the relevant proviso in this case should be construed without reference to the purview of sub-section

(1) of section 2 as it is fallacious to think that the proviso is controlled by the purview. According to the learned counsel for the petitioners the proviso has been enacted to provide a complete code for the displaced persons regarding the manner in which permissible area has to be determined for them as distinguished from the entirely separate subject-matter of the purview under which permissible area is to be determined for non-displaced persons.

On the other hand, it has been held by the Andhra Pradesh High Court in *Jummarlal Surajkaran's case* that ordinarily a proviso would operate within the sphere occupied by the main section and should not normally be extended beyond the main section. In the same case it has, however, been held that the Legislature may enact a substantive provision in the garb of a proviso and that if it appears from the language of the proviso that its application could not be restricted to the main section the Court must look upon it as a substantive provision. The judgment of the Andhra Pradesh High Court does not, therefore, appear to help the learned Advocate-General to the extent to which he thought.

Roughly speaking, provisos can be of three types. The effect of a proviso may be merely to except or take out of the purview a certain class or a certain contingency. In the second set of cases the object of the proviso may be only to qualify the purview. The third kind of provisos is the one usually known as a saving clause. In case the purview and the proviso cover the same field and the two are irreconcilable, the proviso is given its full effect against the purview as the proviso is said to be the last expressed intention of the Legislature. The first proviso is of a qualifying nature. It acts in both directions. It qualifies the purview as well as the second proviso. The effect of the first proviso is that no area under an orchard at the time of the commencement of the Ceiling Act can be taken into account in computing the permissible area either for displaced persons or for non-displaced persons. Construed in any other manner, the displaced persons would be placed at a disadvantage in this respect. This could not have been the intention of the Legislature and would be contrary to the scheme of the Ceiling Act. The second proviso appears to deal with all possible cases of displaced allottees of agricultural land. In this sense it completely

takes out of the purview cases of displaced allottees. With this preface regarding the scope of the proviso, I may now deal with the three alternative sets of interpretations canvassed before us.

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I will first take the argument suggested on behalf of the counsel for the petitioners to the effect that clause (a) of the second proviso leaves an absolute choice in the hands of the displaced allottee to get his permissible area fixed either at 50 standard acres or at 100 ordinary acres as he may like. I have no hesitation in repelling this suggestion. To construe clause (a) in the manner suggested by the petitioners in this respect would be to read the words "as the displaced person may like" in place of the expression "as the case may be" in the relevant sub-clause. Dulat and Mahajan, JJ. in *Sham Lal Saluja's case* did not accept the argument about the choice of the displaced person. The precise argument was no doubt advanced before the Bench, but all that the Court said was that the contention in question seemed to have some force. The argument was not at all examined any further and no finding of the Court thereon was even attempted to be given. In spite of the suggestion being attractive, the Court declined to go into it on the ground that no such argument had been advanced before the Financial Commissioner. No real strength can, therefore, be derived by the petitioners from the observations of the Bench in the case of *Sham Lal Saluja*, which have already been quoted verbatim in the earlier part of this judgment. There is no warrant for such an extraordinary interpretation being resorted to. Nor does such an interpretation appear to be consistent with the scheme of the Ceiling Act.

All that now remains to be decided is the controversy relating to the carrying over of the conversion formula from the purview of sub-section (3) to the second proviso. After a very careful consideration of all the rival arguments addressed before us at the hearing of these petitions I have come to the clear conclusion that the entire contents of the purview of sub-section (3) of section 2 of the Ceiling Act are excluded from the field covered by the second proviso of that sub-section. Consequently there is no justification whatever for introducing into that proviso the conversion formula which appears to have been deliberately excluded in the definition of permissible area for

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displaced allottees. I will now proceed to give briefly my reasons for arriving at the above-said conclusion.

One of the basic principles of interpretation of statutes is that it must be presumed that every word used in a section of a legislative enactment has been inserted with a purpose and some meaning must be assigned to it. The intention of having uselessly added surplus words or phrases should never be attributed to the Legislature. It has been authoritatively held by their Lordships of the Supreme Court in *J. K. Cotton Spinning and Weaving Mills Co. Ltd.* v. *State of Uttar Pradesh and other* (19), that the Courts always presume, while interpreting statutes, that the Legislature inserted every part thereof for a purpose and the legislative intention is that every part of the statute should have effect.

Keeping the above principle in view we must assume that the Legislature has deliberately used the well-known expression "as the case may be" in the proviso in question with some definite purpose and intendment. This expression necessarily means that at least two situations are envisaged by the earlier part of the section and two separate provisions or alternatives are provided in a later part of the same sub-section to one of which the one alternative and to the other of which the other is intended to be applicable. The expression "as the case may be" cannot permit the application of the same alternative to both the contingencies or *vice versa*. It is implicit in the use of this phrase that one out of the various alternatives would apply to one out of the various situations and not otherwise. "One" here would of course include more than one contingencies for one set of circumstances in a given case. It is significant that the relevant qualification of a displaced person referred to in clause (a) of the second proviso is "who has been allotted land in excess of 50 standard acres". Then two alternative measures of permissible area are provided, viz., 50 standard acres or 100 ordinary acres. It is after the provision of these alternatives that follows the expression "as the case may be". In this context it is obvious that the use of the aforesaid phrase (as the case may be) would not permit the application of both ways of calculation, i.e., calculation in standard acres as also calculation in terms of ordinary acres, to the

(19) A.I.R. 1961 S.C. 1170.

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same case. This forces us to find two types of allottees of land amongst displaced persons to one of which the limit has to be imposed in terms of standard acres and to the other of which permissible area has to be calculated in ordinary acres. It is also a recognised principle of interpretation of statutes that in order to give meaning to the clear and definite intention of the Legislature, some words may in suitable cases be read in the provisions to avoid reducing the provisions to an absurdity. In "Maxwell on Interpretation of Statutes" (1953 edition) it has been stated at page 229 as follows:—

> "Where the language of a statute, in its ordinary meaning and grammatical construction, leads to a manifest contradiction of the apparent purpose of the enactment, or to some inconvenience or absurdity, hardship or injustice, presumably not intended, a construction may be put upon it which modifies the meaning of the words, and even the structure of the sentence. This may be done by departing from the rules of grammar, by giving an unusual meaning to particular words, by altering their collocation, or by rejecting them altogether, under the influence, no doubt, of an irresistible conviction that the legislature could not possibly have intended what its words signify, and that the modifications thus made are mere corrections of careless language and really give the true meaning."

It has also been held by their Lordships of the Supreme Court in *Tirath Singh* v. *Bachittar Singh and others* (20), that where the language of a statute, in its ordinary meaning and grammatical construction, leads to a manifest contradiction of the apparent purpose of the enactment, or to some inconvenience or absurdity, hardship or injustice, presumably not intended, a construction may be put upon it which modifies the meaning of the words, and even the structure of the sentence.

Applying the above-said principle of interpretation of statutes to the relevant proviso, I would in order to give

(20) A.I.R. 1955 S.C. 830.

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sense to the clause introduce in it the words italicised by me and read it as below:—

> "For a displaced person, who has been allotted land in excess of 50 standard acres *or in excess of 100 ordinary acres,* the permissible area shall be 50 standard acres or 100 ordinary acres, as the case may be."

As I will hereinafter show, the reading of the disputed proviso in the above manner reconciles it with the scheme of the Ceiling Act as also with the remaining clauses of the proviso itself. This construction also gives clear and definite meaning to the expression "as the case may be" deliberately used in the relevant clause. No other way of construction is capable of giving any sense to that phrase. At the same time it gives full effect to the word "or" used between the reference to standard acres and ordinary acres. In fact even the respondents want to introduce something into clause (a) of the second proviso in order to support their interpretation. They want to read into clause (a) of the second proviso the words "whichever is less" after the words "100 ordinary acres". But the moment this is done the last words of the clause "as the case may be" not only become redundant, but come into direct conflict with the rest of the clause and become irreconcilable with it. The construction canvassed for by the respondents would also lead to some amount of uncertainty and confusion in the application of clause (a) itself and result into friction and disharmony when read along with clauses (b) and (c) of that proviso. In these circumstances, I have no hesitation in agreeing with the ratio of the judgment of Shamsher Bahadur, J. in *Harcharan Singh* v. *The Punjab State and others* (6), and to hold that the only possible meaning to be given to this part of the proviso is that if the allotment of a displaced person is in standard acres, the permissible area for him will be calculated in standard acres and if his allotment is in ordinary acres, the permissible area for him would be calculated in ordinary acres. This view is also consistent with the judgment of D. K. Mahajan, J. in *Rawat* v. *State of Punjab and others* (12), and with the consistent stand which Financial Commissioner, Fletcher has been taking in this matter. One of his judgments in that connection has been given in *Jas Ram* v. *Siri Chand and others*

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(13), to which reference has already been made by me. The construction, which found favour with Mr. Fletcher, Financial Commissioner and also has the approval of my learned brother, Shamsher Bahadur, J. and of D. K. Mahajan, J., is consistent with the smooth working of the system and arrangement which the second proviso purports to regulate. I have not been able to understand the reasoning of the learned counsel for the respondents by which the phrase "as the case may be" is sought to be equated to the expression "whichever is less". This meaning has never been given to the expression "as the case may be" and so far as I understand the English language, the expression "as the case may be" is not susceptible of being given that meaning.

The second consideration which has weighed with me is this. The purview of the sub-section contains the general provisions relating to definition of 'permissible area'. The second proviso aims at excluding the cases of displaced allottees from the purview. The definition of "permissible area" relating to displaced allottees is given in the second proviso in no less a complete and comprehensive manner than the one in which it is defined in the purview for other persons. Obviously the two definitions are substantially different from each other. The only thing common between the two is the object of fixing a ceiling on the permissible holding of a landowner. For determining the permissible area of a displaced allottee the general provision contained in the purview will, therefore, completely give way to the special provisions contained in the second proviso. The argument of the learned Advocate-General to the effect that the blood and life of the purview must be allowed to run through the proviso does not appeal to me in a case of this type where the proviso contains a complete exception to the purview. A proviso is not a sub-section so as to be treated as a part of the intergral whole of the section. The second proviso in the context of this section is meant to provide a definitely different definition of permissible area for displaced allottees as compared to other persons, who do not fall in that particular class.

The next thing which has weighed with me in this connection is that the proviso contains a piece of legislation specially beneficial to and enacted for the welfare and

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more liberal treatment of displaced persons, who are allottees of agricultural land from the compensation pool. One of the objects of the Act is to place a ceiling on the holding of agricultural lands within the State of Punjab. The Legislature appears to have thought that if the ceiling was fixed in terms of geographical area it may result in inequity as certain lands are worth several times more than other lands in value. It has, therefore, been provided in the Ceiling Act that a standard acre would be determined in view of the class of the land and the quality of its yield. That purpose would be completely frustrated if in determining the actual ceiling, the ultimate thing to be kept in view would be area in ordinary acres. It also appears to me intrinsic in the scheme of the Act that whereas in the case of original landowners in the State it would be a question of depriving them of the surplus land, it would not always be so in the case of displaced allottees on whom proprietary rights had yet to be conferred or had been recently conferred as compensation under the Displaced Persons (Compensation and Rehabilitation) Act 44 of 1954. In most of the cases allotments to displaced persons were in standard acres. One of the objects for treating displaced persons differently is to rehabilitate them after their having been uprooted from their original holdings in what is now West Pakistan and to compensate them for lands left behind by them in Pakistan. Cuts had already been applied in their case (before making allotments of agricultural land to them) according to the scheme referred to in Tarlok Singh's Land Resettlement Manual and in various notifications. No such cut had been applied to the holdings of landowners, who are not displaced allottees. The departure from the purview in the proviso, therefore, appears to be based on a sound principle. In this respect it is significant that only displaced "allottees" and not displaced "persons" are brought into proviso (ii). This could also be a justification for standard acreage alone being kept in view for determining the permissible area of displaced allottees except those in whose case the original allotment itself is in ordinary acres. Having restricted the holding of a displaced allottee to certain standard acreage at two stages it has not been found necessary by the Legislature to impose a further restriction of the conversion formula on them. In these circumstances, the construction of the second proviso adopted by me appears to further the policy of the statute and must, therefore, be

preferred to the alternative interpretation which is sought to be placed on it by the respondents. In order to give way to the respondents' contention we will have to read the word "and" in place of the word "or" and we will also have to substitute the expression "whichever is less" in place of the phrase "as the case may be". There is no warrant for adopting such a course so as to completely change the construction of the entire proviso.

In the 1950 Act, there was no conversion formula for holders of less than 100 standard acres of land. Even now for persons, who are not displaced allottees the holding of less than 30 standard acres does not appear to attract the conversion formula. The provision as interpreted by me would not, therefore, be inconsistent with the general scheme of the Act.

It may also be noticed that in the Pepsu Act, 13 of 1955, the conversion formula has been applied even to the permissible area of displaced allottees. The Ceiling Act was amended in 1955 and still the phraseology of the second proviso was not interfered with. It also appears to me that at least one of the Financial Commissioners has been constantly interpreting the proviso in the manner favourable to the petitioners in these cases and my learned brother, Shamsher Bahadur, J. interpreted the proviso in the same manner quite some time ago, but the State has neither appealed against the judgment of the learned Single Judge of this Court in *Harcharan Singh's case* nor taken in hand the amendment of the relevant provisions. This amounts to a certain extent to the legislative recognition of the judicial interpretation placed on the proviso by this Court in *Harcharan Singh's case.*

The intention of the Legislature regarding the meaning of clause (a) of the second proviso can also be gathered from the scheme of the other two clauses of the proviso. Clause (a) does not apply to a displaced person whose allotment was upto or less than 50 standard acres (and upto or less than 100 ordinary acres). If conversion formula is to be applied to allottees of more than 50 standard acres, the result would be this. An allottee of 50 standard acres would not be affected even if his holding is equal to 200 ordinary acres, but an allottee of 51 standard acres may be left with only 25 standard acres if on conversion 51 standard

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acres work up to about 200 ordinary acres. Such an absurd result must be avoided so long as the language of the statute permits it. Clause (b) of the proviso makes it further clear. The permissible area of a displaced allottee of 30 to 50 standard acres is the area of his allotment. There is no room for application of conversion formula to this class of allottees. It was not only so held by Shri Fletcher, Financial Commissioner in *Rup Ram* v. *Shrimati Kako Bai* (11), but it has also been so held by H. R. Khanna, J. in *Basakha Singh* v. *The State of Punjab and others* (9). I am in respectful agreement with the view expressed by Khanna, J. in the aforesaid case on the construction of clause (b) of the second proviso. That being so, it is impossible to believe that the Legislature wanted to give step-motherly treatment to displaced allottes of more than 50 standard acres by giving them even less ordinary acreage than an allottee of less than 50 or upto 50 standard acres. As stated above, effort should be made by the Court to harmonise every part of the section and to avoid a construction which would lead to oddities, absurdities or *anomalies*. The view adopted by me, therefore, appears to be the only way to reconcile all the three clauses of the second proviso in a harmonious way. Similarly when reference is had to clause (c) of the second proviso, the legislative intent appears to become still clearer. It appears to me that the second proviso contains a complete definition of permissible area so far as displaced allottees are concerned. No doubt further relief is given even to displaced persons by the first proviso and that is why the same has been put between the two otherwise independent and self-contained statutory provisons. The first proviso permeates on both sides. But no part of the purview has to be brought into the second proviso which is a complete code in itself and which forms an exception to the rule contained in the purview in all its material aspects.

Only one argument of Mr. J. N. Kaushal, the learned Advocate-General remains to be examined. He submitted that the intention of the statute is clear at least to this extent that the Ceiling Act envisages that no one shall be allowed to retain more than 100 ordinary acres. It appears to me that this argument is misconceived. A displaced allottee of land upto 50 standard acres is not being touched at all even if his holding in ordinary acreage is definitely more than 100. Similarly, a non-displaced

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person holding less than 30 standard acres does not appear to be affected by the purview of sub-section (3) of section 2 of the Act even if such 29 standard acres or less, when converted into ordinary acres, would amount to more than 60 ordinary acres. The basis of this argument of the learned Advocate General, therefore, appears to be illusory and non-existent. The interpretation sought to be placed on the relevant provision by the petitioners does not in any way come into conflict with the object or the scheme of the Act and must, therefore, be accepted.

Civil Writ Petition Nos. 396 of 1963 and No. 196 of 1963, are, therefore, allowed and the impugned orders by which the holdings of the petitioners, who are all displaced allottees of more than 50 standard acres and whose allotments are sought to be reduced below 50 standard acres are quashed and set aside. The permissible area of these allottees is 50 standard acres irrespective of the fact that on conversion the area would exceed 100 ordinary acres. C.W. No. 1605 of 1963 fails and is dismissed. The allotment of the petitioners in that case was in ordinary acres. Their permissible area is, therefore, 100 ordinary acres, in spite of the fact that on conversion it works out to only 49.9 standard acres. In the peculiar circumstances of these cases parties are left to bear their own costs.

Dua, J.

INDER DEV DUA, J.—I agree.

Shamsher Bahadur, J.

SHAMSHER BAHADUR, J.—I agree.

B.R.T.

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