

I. L. R. Punjab and Haryana

(1967)2

CIVIL MISCELLANEOUS

*Before R. S. Narula, J.*ONKAR NATH,—*Petitioner**versus*THE CENTRAL GOVERNMENT OF INDIA AND OTHERS,—*Respondents*

Civil Writ No. 966 of 1963

November 9, 1966

*Displaced Persons (Compensation and Rehabilitation) Rules (1955)—Rule 65—Object of—Agricultural land which has “been allotted”—Meaning of—Subsequent cancellation of allotment—Effect of.*

*Held*, that the object of Rule 65 of the Displaced Persons (Compensation and Rehabilitation) Rules is that any person to whom more than 4 acres of agricultural land is allotted, that is any person who is able to make use of the said rehabilitation benefit allowed by the law, would not also be entitled to receive compensation separately in respect of his verified claim for any rural building assessed value of which is less than Rs. 20,000. The law does not provide for a displaced person being deprived of both the alternative reliefs permitted by the rules to be granted to him. Such an interpretation of rule 65 would go contrary to the very object of the Act.

*Held*, that agricultural land which has been allotted within the meaning of rule 65 of the Displaced Persons (Compensation and Rehabilitation) Rules means land which is not only allotted on the paper and subsequently cancelled, but which is actually allotted for all practical purposes and given to the allottee. The Rehabilitation Authorities cannot deprive a person of the compensation for his verified claim by merely making a paper allotment and then cancelling it on one ground or the other.

*Petition under Article 226 of the Constitution of India, praying that a writ of certiorari or any appropriate writ order or direction be issued quashing the order of the Processing Officer, dated 23rd May, 1961, cancelling the verified claim and the orders of the appellate authority, dated 26th June, 1962 and of the Chief Settlement Commissioner, dated 18th September, 1962 and of the Central Government, dated 22nd November, 1962.*

S. K. JAIN, ADVOCATE, for the Petitioner.

K. S. KAWATRA, ASSISTANT ADVOCATE-GENERAL, for the Respondents.

Onkar Nath *v.* The Central Government of India, etc. (Narula, J.)

### ORDER

NARULA, J.—Onkar Nath petitioner, a displaced person from West Punjab, has come up to this Court under Article 226 of the Constitution for quashing the orders of the rehabilitation authorities declining to give him any compensation for his verified claim bearing index No. P/SLI/3379(2859), on the solitary ground covered by rule 65 of the Displaced Persons (Compensation and Rehabilitation) Rules, 1955, on the allegation that the petitioner had been held entitled for allotment of 1/4th unit of agricultural land in India. The final order against the petitioner is of Shri P. N. Bhanot, Settlement Commissioner, with delegated powers of Chief Settlement Commissioner, dated September 18, 1962 (Annexure 'E') (in which all earlier orders have merged). The findings of fact recorded in the said order are to the effect that  $\frac{1}{4}$  unit of land was allotted in the papers to the petitioner in village Dhansa, tehsil Garhshankar, district Hoshiarpur, but that the said allotment was cancelled because the petitioner did not take possession of the land. It is admitted case of both sides that the petitioner never took possession of the land. According to the petitioner, he was not even aware of the said paper allotment. In the impugned order, the Chief Settlement Commissioner has stated that the petitioner can even now apply for and get back the agricultural land allotted to him in lieu of the land left behind by him in West Pakistan. I do not think that the case falls within the mischief of rule 65 of the aforesaid rules. Agricultural land which has "been allotted" within the meaning of rule 65 means land which is not only allotted on the paper and subsequently cancelled, but which is actually allotted for all practical purposes and given to the allottee. The rehabilitation authorities cannot deprive a person of the compensation for his verified claim by merely making a paper allotment and then cancelling it on one ground or the other. The object of rule 65 is that any person to whom more than 4 acres of agricultural land are allotted that is any person who is able to make use of the said rehabilitation benefit allowed by the law, would not also be entitled to receive compensation separately in respect of his verified claim for any rural building the assessed value of which is less than Rs. 20,000. The law does not, however, provide for a displaced person being deprived of both the alternative relief permitted by the rules to be granted to him. Such an interpretation of rule 65 would go contrary to the very object of the Act. I have, therefore, no hesitation in holding that error of law is apparent on the fact of the impugned orders of rehabilitation authorities. I am supported in the view taken by me by an unreported judgment of Shamsheer Bahadur, J., dated the 2nd of April, 1965, in *Divan Singh v. The Union of India*

and another, C.W. No. 1447 of 1962, a short note of which appears in 1965, P.L.R. S.N. 109 at page 57. There is no force in the contention of the learned counsel for the respondent to the effect that relief should be denied to the petitioner on the ground that there is delay in filing of his case in this Court by about six months.

For the foregoing reasons, this writ petition is allowed and the impugned orders of the rehabilitation authorities declining to give compensation to the petitioner for his verified claim for the house property, are set aside and quashed. There will be no order as to costs.

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R.N.M.

APPELLATE CIVIL

Before S. B. Kapoor, J.

THE STATE OF PUNJAB AND ANOTHER,—*Appellants*

*versus*

JAGAN NATH CHHICHARA,—*Respondent*

Regular Second Appeal No. 1454 of 1965

November 11, 1966

*Code of Civil Procedure (Act V of 1908)—S. 105, Order 11, Rule 21 and Order 43, Rule 1(f)—Plaintiff or defendant failing to comply with the order to answer interrogatories or for discovery or inspection of documents—Effect of—Defendant filing no appeal from the order passed under Order 11, Rule 21—Whether can challenge the order in an appeal from decree—Defendant whose defence is struck off under Order 11, Rule 21—Whether can file appeal against the decree.*

*Held*, that the failure of the plaintiff to comply with any order to answer interrogatories or for discovery or inspection of documents renders him liable to have the suit dismissed for want of prosecution. But if the defendant makes a similar default, the suit is not to be automatically decreed. All that the rule lays down is that he is to be placed in the same position as if he had not defended and the Court has to consider the plaintiff's case on merits, disregarding any defence, which may have been offered by the defendant by written statement or otherwise. It has to give a finding on the various issues raised and a decree in favour of the plaintiff will follow only if the Court finds, in the