

Naranjan Singh, etc. *v.* The Financial Commissioner, Punjab, etc.  
(Mehar Singh, C.J.)

infirm parents so long as they are not able to maintain themselves. The language of this sub-section is different from that of section 488 of the Code of Criminal Procedure and the presumption which some Courts raised when a child attained the age of 18 years or more in cases arising under that provision of law, cannot be held to arise in cases under the Act. The obligation to maintain an unmarried daughter is absolute and extends so long as she is not able to maintain herself out of her own earnings or property. The burden, in our opinion, is rather, on the father or mother to show that he or she stands discharged from his or her liability to pay maintenance to the unmarried daughter as the latter is able to maintain herself out of her own earnings or property. The expression 'is unable to maintain himself or herself out of his or her own earnings or other property' is more in the nature of a proviso to the first part of sub-section (3) which imposes in most unequivocal terms an obligation on the father or the mother regarding their unmarried daughter or infirm or aged parents. It is, therefore, for the father or the mother to establish that his or her case falls under the proviso. It does not seem to be the intention of the Act that a presumption of ability to earn and maintain herself should, in the case of a Hindu girl, be raised from her bodily health or age alone. In the instant case, however, the matter of the plaintiff being able to maintain herself or not was present to the minds of both the parties and any rule as to burden of proof could not affect the findings of the lower appellate Court. There is no merit in this appeal which stands dismissed with costs.

S. B. CAPOOR, J.—I agree.

R.N.M.

APPELLATE CIVIL

*Before Mehar Singh, C.J., and Bal Raj Tuli, J.*

NARANJAN SINGH AND OTHERS,—Appellants

*versus*

THE FINANCIAL COMMISSIONER, PUNJAB, AND OTHERS,—  
*Respondents.*

**Letters Patent Appeal No. 260 of 1968**

September 3, 1968.

*Punjab Security of Land Tenures Act (X of 1953 as amended by XXXII of 1959)—S. 19—Protection under—Whether available to evacuee property after it ceases to be so—S. 18—Tenant's application for purchase filed before amendment of the Act—Such application not disposed of—Whether becomes valid after the amendment.*

*Held*, that in section 19 of the Punjab Security of Land Tenures Act, 1953, before its amendment by section 4 of the Punjab Act 32 of 1959, protection was given to evacuee property at the commencement of the Act. After the transfer, of the evacuee property to, and conferment of permanent ownership rights on, the allottees, the property has in substance, ceased to be evacuee property. The protection in section 19 only availed so long as the property continued to be evacuee property. After it ceased to be evacuee property on permanent transfer to allottees, granting them full ownership rights, the reason for the protection ceased to exist and so the protection was withdrawn by the Amending Act. If section 19 had not been amended as such, then whatever was evacuee property at the commencement of the Act would have continued to have protection.

(Para 2)

*Held*, that if an application under section 18 of the Act for purchase of the land is made by a tenant on the date on which date no such application is competent, as having been barred by section 19, it makes no difference that on coming into force of the Amending Act the application not competent remained pending before the various authorities subordinate to the Financial Commissioner, and then in the end before him. The application is *ab initio* not competent, and the fact that it is dismissed on such declaration subsequent to the coming into force of the Amending Act does not attract the provisions of that statute to it. The provisions of the Amending Act have no retrospective operation.

(Para 2)

*Letters Patent Appeal under Clause X of the Letters Patent, against the judgment, dated 18th May, 1965, passed by the Hon'ble Mr. Justice Prem Chand Pandit, in Civil Writ No. 1776 of 1962.*

H. L. SARIN & A. L. BAHL, ADVOCATES, for the Appellants.

GURDEEP SINGH, ADVOCATE, for the Respondents.

#### JUDGMENT

MEHAR SINGH, C.J.—The land which is concerned in this appeal under clause 10 of the Letters Patent from the order, dated May 18, 1965, of a learned Single Judge, was allotted, being evacuee property, to Lyallpur Khalsa College, Jullundur, respondent 2, but was in the occupation of the three appellants as displaced persons. They made an application on May 8, 1958, for purchase of the land in their possession as tenants under section 18 of the Punjab Security of Land Tenures Act, 1953 (Punjab Act 10 of 1953), alleging that they had been tenants of the land for over six years and were thus entitled to the relief claimed by them. The application was dismissed on

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November 27, 1961, by the Assistant Collector, against which order the appellants filed an appeal to the Collector, who, on March 30, 1962, recommended that the application of the appellants under section 18 of the Act was not maintainable because of section 19 of the Act which said that the provisions in section 18 shall not affect evacuee property as defined in the Administration of Evacuee Property Act, 1950 (Act 31 of 1950). This recommendation came before the Additional Commissioner of Jullundur, who, on May 12, 1962, endorsed the recommendation to the Financial Commissioner and in his turn the Financial Commissioner in his order of August 7, 1962, agreed with those authorities and dismissed the application of the appellants.

(2) It was against the order of the Financial Commissioner made on August 7, 1962, that the appellants filed a petition under Article 226 of the Constitution for quashing of that order, but the learned Single Judge has dismissed the petition, maintaining that order. In section 19 of the Act the words 'at the commencement of this Act' were deleted by section 4 of the Punjab Security of Land Tenures (Second Amendment) Act, 1959 (Punjab Act 32 of 1959), which came into force on August 13, 1959, and the effect of this amendment was that on and from August 13, 1959, the protection available to the allottees under section 18 of the Act in regard to the evacuee property has been taken away. In the objects and reasons for this change in section 19, it was stated that "under section 19 of the principal Act, a tenant holding tenancy on a land which was 'evacuee property' on the 15th April, 1953, was not competent to pre-empt the sale of his tenancy or purchase its proprietary rights under sections 17 and 18. As all evacuee property has since been acquired by the Government of India and allotted to displaced persons on a permanent basis, the said property has ceased to be evacuee property and the allottees have become full proprietors thereof. In the changed circumstances, the continuance of the protection to such property does not appear justifiable and therefore, it is proposed to amend section 19 so as to enable tenants holding such lands to pre-empt sales of tenancy lands and purchase their proprietary rights." Although the objects and reasons are not an aid to the interpretation of a statutory provisions, but the same do explain the basis upon which the amendment to the law in this case proceeds. In section 19 of the Act, before its amendment by section 4 of Punjab Act 32 of 1959, protection was given to evacuee property

at the commencement of the Act, that is to say on April 15, 1953. After the transfer, of the evacuee property to, and conferment of permanent ownership rights on, the allottees, the property has in substance ceased to be evacuee property. Obviously the legislature then proceeded to make its intention clear that the protection in section 19 only availed so long as the property continued to be evacuee property. After it ceased to be evacuee property on permanent transfer to allottees, granting them full ownership rights, the reason for the protection ceased to exist and so the protection was withdrawn by section 4 of Punjab Act 32 of 1959. In express words section 19 is meant to protect from the provisions of sections 17 and 18 the evacuee property or any other property which may at any time be acquired by the Central Government for resettlement of displaced persons. If section 19 had not been amended as such, then whatever was evacuee property at the commencement of the Act would have continued to have protection, for which the justification obviously ceased on such property ceasing to be evacuee property because of the transfer of permanent ownership rights in it to displaced persons. The application under section 18 was made on May 8, 1958, on which date no such application was competent qua the land in dispute on the part of the tenants, it having been barred by section 19 of the Act. It makes no difference that to the date of the coming into force of Punjab Act 32 of 1959 the application not competent continued before the various authorities subordinate to the Financial Commissioner, and then in the end before him. The application was *ab initio* not competent, and the fact that it was dismissed on such declaration subsequent to the coming into force of Act 32 of 1959 did not attract the provisions of that statute to it. This is the approach of the learned Single Judge and I entirely agree with him.

(3) It has been contended on behalf of the appellants—(a) that the provisions of section 4 of Punjab Act 32 of 1959, amending section 19 of the Principal Act, have retrospective operation, and (b) that it is a law which must be taken note of by the authorities in proceedings pending before them and applied to the same, with the result that when that is done, even the Assistant Collector had no right to ignore the amendment. There is a fallacy in both the approaches to the facts of this case. Section 4 of Punjab Act 32 of 1959 is not in terms retrospective. There is nothing in it which makes it impliedly retrospective. If anything, the very words of

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section 19, even after the amendment, negative any such interpretation of that provision. The reason is that section 19 gives protection only to evacuee property or any other property acquired by the Central Government for the resettlement of displaced persons. The previous position that once its nature and character were settled at the commencement of the Act on April 15, 1953, that should continue to attract the protection ceased to be so on the date of the coming into force of Punjab Act 32 of 1959 on August 13, 1959. The protection already existing could only have been taken away by express words or by necessary implication and neither is the case here. The application of the appellants could not be entertained on the date on which it was made. So it must be taken to there having been no application on that date and nothing can be taken to have been pending merely because the matter was dragging on. On the date on which the application was made, the protection was available to the displaced persons to whom the land had been sold and such protection could not be taken away by a statute operating some time after that. Of course from the date of amendment of the statute, if the appellants satisfy the condition of section 18 of the Act, they can move for the purchase of the land under them and as much has been observed by the learned Single Judge at the end of his order.

(4) There is no substantial argument for interference with the order of the learned Single Judge and this appeal fails and is dismissed with costs.

BAL RAJ TULI, J.—I agree.

R.N.M.

FULL BENCH.

*Before Harbans Singh, Ranjit Singh Sarkaria and H. R. Sodhi, JJ.*

BISHAMBER DUTT-ROSHAN LAL AND OTHERS,—*Petitioners.*

*versus*

GIAN CHAND,—*Respondent.*

**Civil Revision No. 504 of 65**

**Civil Misc. No. 3881 of 68**

April 15, 1969.

*East Punjab Rent Restriction Act (III of 1949)—S. 13—Displaced Persons (Compensation and Rehabilitation) Act (XLIV of 1954)—Ss. 10 and*