FULL BENCH

Before Shamsher Bahadur, Prem Chand Pandit and R. S. Narula, JJ.

MUNSHI RAM AND OTHERS,—*Appellants*

versus

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

Letters Patent Appeal No. 47 of 1967.

August 30, 1967.

Punjab Security of Land Tenures Act (X of 1953)—S. 2(3) and (5)—Standard acre, Ordinary acre and Permissible area—Meaning of—30 standard acres on conversion exceeding 60 ordinary acres—Area less than 60 ordinary acres on conversion exceeding 30 standard acres—Landowner—Whether entitled to 30 standard acres or 60 ordinary acres as 'permissible area'—East Punjab Displaced Persons (Land Resettlement) Act (XXXVI of 1949)—S. 2(3)—Displaced person—meaning of—Sons of a right-holder who held land in West Punjab or other specified territories now in Pakistan but died in India after 15th August, 1947, and before the enactment of the above Act—Whether are displaced persons—Heirs of original allottee—Whether governed by the 'explanation' to section 2(3) of the Punjab Security of Land Tenures Act—Interpretation of Statutes—Speeches in the Legislature and statements of objects and reasons—Whether can be used as aids to construction—Language of statute plain and unambiguous but involving some hardship if grammatical meaning given—Resort to addition or deletion of words—Whether permissible.

Held, that 'standard acre' as defined in section 2(5) of the Punjab Security of Land Tenures Act, 1953 emphasises the qualitative aspect of a holding of the land, while 'ordinary acre' refers to the quantitative aspect of the holding.

Held, that permissible area of a landowner as defined in section 2(3) of the Punjab Security of Land Tenures Act, 1953, means thirty standard acres and if these on conversion exceed sixty ordinary acres, "such sixty acres". It means that an owner of land cannot be left with more than thirty acres of the standard of the notionally best quality, and double that area if the quality is half that good but no further concession in ordinary acreage is allowed if the quality falls below "eight-annas in the rupees". Likewise, permissible limit of land of less than the standard quality but better than that of "eight annas value" may be scaled down to less than sixty ordinary acres to conform to the other limit of thirty standard acres. Thus, where 45 ordinary acres are equivalent to more than thirty standard acres, the landowner will have to part with some of his land in excess of this limit as surplus. The intention of the Legislature was not to say, that the holding of a landowner, if it is 30 standard acres or less would not be reduced any further if on conversion the area exceeds 60 ordinary

acres. The words "such thirty standard acres" employed in the definition limit the conversion not only in a holding of 30 standard acres but also in less. The conversion formula, which is basis of the definition in sub-section (3) of section 2, is not a surplusage when the holding itself in terms of standard acreage is 30 or less. There is no ambiguity or obscurity in the words used by the Legislature. The Legislature, in devising the formula for computing the permissible area was concerned to put limits on the holdings of land both in its qualitative and quantitative aspect. No landowner or tenant can exceed the limit either of 30 standard acres or of 60 ordinary acres. The area is to be shorn whenever and wherever either the limits of 30 standard acres or 60 ordinary acres are exceeded.

Held, that a 'displaced person' under section 2(3) of the East Punjab Displaced Persons (Land Resettlement) Act should have been a land-holder in Pakistan and who abandoned his lands there any time on or after 1st of March, 1947, as an aftermath of partition or in consequence of disturbances. The landholder must himself have held land in West Punjab or the other specified territories now in Pakistan. The sons of a right-holder who died after 15th August, 1947, in India, cannot be deemed to have held lands in West Punjab and consequently they cannot be said to have abandoned any land there. The sons of the original allottee, who was a displaced person under the East Punjab Displaced Persons (Land Resettlement) Act, are his heirs and as such are governed by the explanation to section 2(3) of the Punjab Security of Land Tenures Act and they cannot avail of the concession available to such persons under clause (b) of proviso (ii) to sub-section 3 of section 2 of the Punjab Security of Land Tenures Act.

Held, that speeches made in the Legislature as well as the statements of objects and reasons are not useful aids in the task of construction of statutes. Only the words employed in the statutes should primarily be the guide in construing them.

Held, that when the language of the statute is plain and unambiguous, there is no reason for its construction in any other way but what it plainly means, even though there may be hardship in some cases. While interpreting provisions of sub-section (3) of section 2 of the Punjab Security of Land Tenures Act, the hard cases are not such that would lead to such an absurdity or injustice as to make it necessary for a resort to any addition or deletion of words in the provision.

Letters Patent Appeal under Clause 10 *of the Letters Patent against the judgment of the Hon'ble Mr. Justice P. D. Sharma passed in Civil Writ No.* 1530 *of* 1966 *on* 24*th November,* 1966.

H. S. Wasu, Senior Advocate with Lakhbir Singh Wasu, Ram Rang and Manisabrat Jain, Advocates, for the Appellants.

H. L. Sibal, Senior Advocate, instructed by S. C. Sibal, Advocate, for the Respondents.

JUDGMENT

SHAMSHER BAHADUR, J.—This judgment will dispose of five companion letters patent appeals Nos. 47 to 51 of 1967, instituted jointly by the five brothers, Munshi Ram, Mohri Ram, Bhagwan Dass, Bhoja Ram and Satnam Dass against five different tenants of their joint holding, as well as letters patent appeal No. 167 of 1967 (*Bhoj Raj* v. *State of Punjab and others*). In all these six appeals, there is a common question relating to the scope and interpretation of the definition of 'permissible area' in sub-section (3) of section 2 of the Punjab Security of Land Tenures Act, 1953 (hereinafter called the Act). The five letters patent appeals Nos. 47 to 51 of 1967, directed against the judgment of Sharma, J. of 24th November, 1966, were admitted by a Division Bench of Chief Justice and Harbans Singh, J. on 23rd of March, 1967, for hearing before a Full Bench, there being a submission both before the learned Single Judge and the admitting Bench that an observation of Narula, J., speaking for the Court (Dua, J., and myself concurring) in the Full Bench decision of *Khan Chand* v. *State of Punjab and others* (1), seems to overrule by implication the *ratio decidendi* of the Division Bench case of *Nathu* v. *The State of Punjab* (2), though it had otherwise been followed and approved. The same point was raised in L.P.A. No. 167 of 1967 (*Bhoj Raj* v. *State of Punjab*), from the judgment of D. K. Mahajan, J. of 17th March, 1967, which was also admitted by the Bench of Chief Justice and Harbans Singh, J. on 5th May, 1967, and a direction was given that it should be heard with L.P.A. No. 47 of 1967. Besides this common point, there is additionally in the five letters patent appeals of Munshi Ram and his brothers the question whether the appellants are displaced persons entitled to the concession of an enhanced permissible area under proviso (ii) to sub-section (3) of section 2 of the Act; their father having owned lands in Pakistan and dying before the actual allotment was made in his favour ?

The facts on which there is no dispute in the two sets of cases are these. Bishan Dass, father of the appellants in L.P.As. Nos. 47 to 51 of 1967, owned considerable land in Pakistan. He died on 11th of April, 1948, after he had migrated to India. Before his death, Bishan Dass filed his claim under the East Punjab Refugees (Registration of Land Claims) Act, 1948, on 13th March, 1948, in respect of landed property left in Pakistan. No allotment was made till the death of Bishan Dass and eventually the claim was verified and allotment made on 26th of

(1) I.L.R. (1966)2 Punj. 447=1966 P.L.R. 543.
(2) 1964 L.L.T. 56.

August, 1949. The allotment, which was of 124 standard acres and ¼ unit, equivalent to 441 ordinary acres, was in the name of Bishan Dass, but mutation was sanctioned in the names of his five sons jointly with defined share of 24 standard acres and 13 units in the name of each brother, being one-fifth of the entire allotted area. Permanent rights were granted to the sons of Bishan Dass in due course on 2nd of January, 1956. The land was in occupation of different tenants against whom the five brothers jointly initiated ejectment proceedings under the Act, on the ground that each of them was a 'small landowner' which is defined in sub-section (2) of section 2 of the Act as a landowner "whose entire land in the State of Punjab does not exceed the 'permissible area'. Ram Dhan, now a respondent in L.P.A. No. 47 of 1967, was one of those tenants, and against him the application was filed on 9th of October, 1963. It would not be necessary for the decision of the cases to give particulars of the four ejectment applications against the other tenants giving rise to letters patent appeals (Nos. 48 to 51 of 1967). In each case the plea of the tenant was that the appellants not being 'small landowners' the applications for ejectment could not be maintained. The application of the petitioners in Form K-I, prescribed by Section 9(1) (i) of the Act, under which the tenant of a small landowner alone could be ejected, was dismissed by the Assistant Collector, Hissar, on 4th of April, 1964. According to this authority, the share of each of the five appellants on conversion being 88 ordinary acres, the area came to exceed the limit of 'permissible area' which under sub-section (3) of section 2 of the Act is thus defined:—

> " 'Permissible area' in relation to a landowner 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) . . .
>
> (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 person to whom land is allotted."

The limit of 60 ordinary acres having been exceeded the Assistant Collector did not consider any of the five brothers to be a small land-owner. The second submission of the appellants that being displaced persons, the allotments made in their favour of 24 standard acres each fell below the limit of permissible area under clause (c) of proviso (ii) was rejected by the Assistant Collector who considered that their case fell under the Explanation which was added to the Act by Punjab Act No. 14 of 1962 on 10th July, 1962, but given retrospective effect from the date when the original Act came into force on 15th of April, 1953. The order of the Assistant Collector was confirmed in appeal by the Collector on 4th of January, 1965, in revision by the Commissioner on 26th October, 1965, and by the Financial Commissioner in a further revision on 17th May, 1966. The writ petitions to this Court preferred by the applicants having been dismissed by Sharma, J. on 24th of November, 1966, they have filed letters patent appeals which, as mentioned aforesaid, have been admitted for disposal by a Full Bench.

Regarding letters patent appeal No. 167 of 1967 (*Bhoj Raj* v. *State of Punjab*), a writ petition was filed by five persons, Bhoj Raj, his sons and grandsons, to challenge the order passed by the Collector, Surplus Area, Sirsa, on 28th of September, 1962, and affirmed in appeal by the Commissioner. The total holding in the hand of Bhoj Raj was 63.15 standard acres, and in terms of ordinary acreage the area was computed at 203.12 acres. The permissible area being 60 ordinary acres, Bhoj Raj was shorn of the remainder although this permissible area in terms of standard acreage comes to 18.42. Amongst other points the question was raised that the permissible area under section 2(3) of the Act could never fall below 30 standard acres. This contention has, however, been rejected by the revenue authorities and in the writ petition Mahajan, J. on the authority of *Nathu* v. *The State of Punjab* (2) upheld the decision of the Surplus Area authorities though it was pointed out to

him that some observations of the Full Bench in *Khan Chand* v. *State of Punjab* (1), to which I would shortly advert, tended to support the contention raised on behalf of the landowner. Being bound by the Division Bench judgment in Nathu's case, the learned Judge dismissed the Petition on 17th March, 1967. In letters patent appeal, the admitting Bench directed that it should be heard along with L.P.A. No. 47 of 1967, in which one of the two points raised was identical. I would now proceed to discuss the first point which is common in both sets of letters patent appeals, this in short being whether the limit of 30 standard acres in section 2(3) of the Act is one which is irreducible ?

It is contended by Mr. Wasu, the learned counsel for the appellants in all the six appeals before us, that the 'permissible area' having been defined to mean 30 standard acres, it should never be allowed to fall below this limit, even though on conversion the area may come to more than 60 ordinary acres. To examine this contention it is necessary to have a closer look at the definition which does not stop with 'permissible area' to mean 30 standard acres, but further provides that "where such 30 standard acres on being converted into ordinary acres exceed sixty acres such sixty acres". It is urged by Mr. Wasu that the words "such 30 standard acres" exclude the possibility of a conversion in cases where the area in standard acreage falls below 30 standard acres. It is recalled that the main purpose of the framers of the Act was that a minimum holding of 30 standard acres was ensured to the landowners and has pointed out to certain passages from the speech delivered by the sponsor of this legislation Shri Partap Singh Kairon on 20th of February, 1953, in the Punjab Legislative Assembly. Even assuming that such an intention could be spelled out from the extracts of the statement read before us, it is settled that the speeches made in the Legislatures as well as the statement of objects and reasons are not useful aids in the task of construction of statutes. In *State of West Bengal* v. *Union of India* (3) Chief Justice, Sinha had occasion to refer to this subject at page 1247 in these words:—

> "It is however well-settled that the Statement of Objects and Reasons accompanying a Bill, when introduced in Parliament, cannot be used to determine the true meaning and effect of the substantive provisions of the statute. They cannot be used except for the limited purpose of understanding the background and the antecedent state of affairs leading up to the legislation. But we cannot use this statement

(3) A.I.R. 1963 S.C. 1241.

as an aid to the construction of the enactment " . . . A statute, as passed by Parliament, is the expression of the collective intention of the legislature as a whole, and any statement made by an individual, albeit a Minister, of the intention and objects of the Act cannot be used to cut down the generality of the words used in the statute."

It is, therefore, plain that the words employed in the statute should primarily be our guide in construing it.

Mr. Wasu next invited our attention to a Supreme Court decision in *Gurbax Singh* v. *The State of Punjab* (4) where Chief Justice Suba Rao commended the summary by the Financial Commissioner, Punjab in *Karam Singh*, v. *Angrez Singh* (5) of the purposes of the Act and spoke thus:—

"The main purpose of that Act seems to be to:—

(i) provide a 'permissible area' of 30 standard acres to a landowner/tenant, which he can retain for self-cultivation,

(ii) provide security of tenure to tenants by reducing their liability to ejectment as specified in section 9,

(iii) ascertain surplus areas and ensure re-settlement of ejected tenants on those areas,

(iv) fix minimum rent payable by tenants; and

(v) confer rights on tenants to pre-empt and purchase their tenancies in certain circumstances."

From the summary approved by the learned Chief Justice, Mr. Wasu infers that the permissible area of 30 standard acres is something which cannot be reduced any further even if on conversion it is found to exceed 60 ordinary acres. Plainly, this is not the conclusion which is to be drawn from the summary of the salient features of the Act. It is true that a permissible area of 30 standard acres has been fixed, but the statutory formula, of which it is part and parcel, has to be read as a whole and the permissible limit of 30 standard acres cannot be read as a provision separate and independent from the remainder. If the purpose of the framers of the Act was that a landowner in possession of 30

(4) 1967 P.L.R. 173.

(5) 1960 L.L.T. 57.

standard acres is not to be deprived of any portion of it even if on conversion it exceeds 60 ordinary acres, there was hardly any point in employing the words of the conversion formula after saying that "permissible area . . . means thirty standard acres".

It may be observed that such an intention in the case of a displaced person is clearly evinced by the Legislature as in clause (c) of proviso (ii), reproduced aforesaid, it is said that "for a displaced person . . allotted land less than thirty standard acres, the permissible area shall be thirty standard acres. ." without any reference to conversion into ordinary acreage.

Reliance is next placed by Mr. Wasu on the decision of Khanna, J. *in Basakha Singh* v. *The State of Punjab* (6), where it fell for consideration of the learned Judge whether proviso (b) in sub-section (1) of section 3 of the Pepsu Tenancy and Agricultural Lands Act, 1955, required any conversion into ordinary acreage. Now, sub-section (1) of section 3 of this Act defines 'permissible limit', as in the Punjab Act, to mean "thirty standard acres of land and where such thirty standard acres on being converted into ordinary acres exceed eighty acres, such eighty acres." The proviso relates to the case of an allottee and clause (b) says that in his case, if he has been allotted land exceeding thirty standard acres but not exceeding forty standard acres, the permissible limit shall be equal to the area of land allotted to him. No reference has been made in the case of an allottee to the conversion formula which is to be employed only in case of landowners who are not allottees. No advantage by Mr. Wasu can, therefore, be taken of the conclusion of Khanna, J. that "a 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. "Precisely the same language is employed in the Act where for a displaced person, under clause (ii) of the proviso to sub-section (3) of section 2, no mention is made of the conversion formula. The formula of conversion in sub-section (3) of section 2 is discussed fully in the Division Bench authority of Chief Justice, Khosla and Sharma, J., in *Nathu* v. *The State of Punjab* (2). In that case, Nathu owned 606 Bighas and 19 Biswas of land which on conversion came to 81.42 standard acres. It was contended before the Bench that the definition of 'permissible area' is *ultra vires* the Constitution as it makes an unreasonable classification in violence of the provisions of Article 14. In dealing with this

(6) 1966 Cur. L.J. (Pb.) 158.

matter, Chief Justice, Khosla (with whom Sharma, J. concurred) speaking for the Court observed thus:—

> "The definition does not mean what the Commissioner, Ambala Division, appears to have assumed it to mean; what it means is that nobody can hold more than 30 standard acres or 60 actual acres, whichever is more. This means that if a person holds land of inferior quality which on being converted amounts to less than 30 standard acres, then his holding cannot exceed 60 ordinary acres, whereas, if a person holds land of such quality that on being converted into standard acres, it falls below 30 acres, but his actual holding is under 60 acres, then he can hold the whole of his land. This appears to me the real meaning of this definition."

'Standard Acre' is defined in the Act to mean "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 concept of 'Standard acre' emphasises the qualitative aspect of a holding of land while ordinary acreage manifestly refers to the quantitative aspect of the holding. The Legislature, in devising the formula for computing the permissible area was concerned to put limits on the holdings of land both in its qualitative and quantitative aspects. No landowner or tenant could exceed the limit either of 30 standard acres or 60 ordinary acres. The area is to be shorn whenever either of the limits of 30 standard acres or 60 ordinary acres is exceeded. We were very much pressed to consider the hardships involved in cases where the value of the holding of a landowner was of an inferior quality. By way of illustration, we have been asked to consider a situation in which lands of two persons though of different qualities and areas in ordinary acreage on conversion amounted in each case to 30 standard acres. In one case, the land is of the standard quality valued at "16-annas in the rupees", where 30 standard acres would be equivalent to 30 ordinary acres. In the other case, where the value of the holding is "4-annas in the rupee", 120 ordinary acres, when converted into standard acreage, would be 30. Under the conversion formula of sub-section (3) of section 2 of the Act, the landowner in the latter case would be deprived of half of his land being in excess of 60 ordinary acres. This would mean a corresponding diminution in the standard acreage to 15. It is pointed out that while in one case a person holding 30 ordinary acres of the value of 16-annas in the rupee would be entitled to retain his entire holding as it would not exceed 30 standard acres, in the other the conversion formula would reduce his standard acreage to 15, albeit the standard value of land in both

the cases is the same. It may, however, be pointed out that on the construction which Mr. Wasu wants us to adopt, even a person holding 29 standard acres would be able to retain his entire holding even though on conversion it comes to, say—70 ordinary acres while a person holding 30 standard acres or more which on conversion amounts to more than 60 ordinary acres would have to part with some area being in excess of the permissible area.

The statutory concept of 'permissible area' of a landowner in sharp contrast to that of a displaced person is of thirty standard acres and if these on conversion exceed sixty ordinary acres, "such sixty acres". It means that an owner of land cannot be left with more than thirty acres of the standard of the notionally best quality, and double that area if the quality is half that good but no further concession in ordinary acreage is allowed if the quality falls below "eight-annas in the rupee". Likewise, permissible limit of land of less than standard quality but better than that of "eight-anna value" may be scaled down to less than sixty ordinary acres to conform to the other limit of thirty standard acres. Thus, where 45 ordinary acres are equivalent to more than thirty standard acres, the landowner will have to part with some of his land in excess of this limit as surplus. It cannot be argued that because of such oddities particularly where landowners of sub-standard qualities would be hit hard when the value falls below 'eight-annas in the rupee', the words in a statute should be read in a different way to relax the rigour of a statutory provision.

Mr. Sibal, the learned counsel for the respondents, has cited Chapter III of the Land Resettlement Manual by Tarlok Singh in which various criteria of valuation of land are given, these being land revenue per acre, value of gross produce per acre, value of net produce per acre, sale value of land, lease value of land and yield. At page 65, the following conclusion is reached :—

> "This key for soil valuations is divided into four parts, the base line being 16 annas. A 16-anna acre or a standard acre is defined as an acre of land whose average settlement yield is 10 maunds of wheat or more, but not exceeding 11 maunds, or other equivalent produce . . . Above 16 annas, the maximum increase permitted in the scale is 2 annas."

Viewed in this perspective, it seems to us that the intention of the Legislature has been very clearly expressed when the 'permissible

area' in the case of a landowner (not a displaced person) is defined to mean 30 standard acres as one limit and when converted not to exceed 60 ordinary acres on the other. There may be cases of hardships, but when the language of the statute is plain and unambiguous, as we are advised it is in this case, there is no room for its construction in any other way but what it plainly means. As stated in Sutherland on Statutory Construction, Volume 2 (Third Edition) in paragraph 4702, "when the intention of the legislature is so apparent from the face of the statute that there can be no question as to its meaning, there is no room for construction". We do not think that the hard cases pointed out to us by Mr. Wasu lead to such an absurdity or injustice in applying the provisions of sub-section (3) of section 2 of the Act as to make it necessary for a resort to any addition or deletion of words in the provision. Again, as stated by Sutherland in the same paragraph at page 336:—

> "To allow a court in such a case to say that the law must mean something different from the common import of its language, because the court may think that its penalties are unwise or harsh would make the judicial superior to the legislative branch of the government, and practically invest it with the law-making power. The remedy for a harsh law is not in interpretation but in amendment or repeal."

The same view expressed in Maxwell on Interpretation of Statutes (Eleventh edition) at page 221 in these words, has been approved by the Supreme Court in *Tirath Singh* v. *Bachittar Singh and others* (7):—

> "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."

As stated in Craies on Statute Law (sixth edition) at page 89:—

> "The argument from inconvenience and hardship is a dangerous one and is only admissible in construction where the meaning of the statute is obscure and there are alternative methods of construction."

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

We do not find any ambiguity or obscurity in the words used by the Legislature, nor is it permissible to deduce that a construction other than the one which was placed in *Nathu's* case is possible. As stated by Craies at the same page:—

> "Where the language is explicit, its consequences are for Parliament, and not for the courts, to consider. In such a case the suffering citizen must appeal for relief to the lawgiver and not to the lawyer."

We do not think that the intention of the Legislature was to say that the holding of a landowner if it is 30 standard acres or less would not be reduced any further if on conversion the area exceeds 60 ordinary acres. It is not possible for us to say that the words "such thirty standard acres" employed in the definition limit the conversion only in a holding of 30 standard acres and not less. Nor is it possible to say that the conversion formula, which is the basis of the definition in sub-section (3) of section 2, is a surplusage when the holding itself in terms of standard acreage is 30 or less.

This brings us to the Full Bench decision of this Court in *Khan Chand* v. *State of Punjab* (1). Three separate petitions were disposed of by the judgment of the Full Bench and in all of them the common feature was that the petitioners who were displaced persons had been allotted lands in terms of standard acres which on conversion exceeded 100 ordinary acres. This appropriate authorities declared the holdings in all the three cases in excess of 100 ordinary acres to be surplus even though in this process the holdings were reduced below 50 standard acres. It was held by the Full Bench that on a true construction of clause (a) of proviso (ii) to sub-section (3) of section 2 of the Act, when a person has been allotted land in terms of standard acres, his permissible area is 50 standard acres and when the allotment is in terms of ordinary acres it would be 100 ordinary acres. Such was found to be the effect of the words "as the case may be". It is to be noted that the definition in sub-section (3) of section 2 of 'permissible area' is restricted to a landowner while the proviso referred to mentions that in case of a displaced person "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". The words "where such thirty standard acres on being converted into ordinary acres, exceed sixty acres, such sixty

acres" did not find a place in the proviso which is applicable to displaced persons. During the course of arguments, the case of *Nathu* v. *Punjab State* (2) was cited before the Bench. Narula, J., speaking for the Full Bench, observed with regard to this authority at page 552 of the report thus:—

> "The correctness of the decision of the Division Bench in *Nathus'* 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" (as the Act had been described by the Full Bench "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 the Full Bench decision, while noticing the argument of the Advocate-General for the other side that "the blood and life of the purview must be allowed to run through the proviso" was repelled and at one place in the penultimate paragraph of the judgment Narula, J. happened to make this observation:—

> "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 up to 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 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 . . .*".

Now, no definite opinion was given by the Full Bench on the question whether a holding of less than thirty standard acres of a landowner (not a displaced person) could be reduced still further under section 2(3) nor was it called upon to do so. The observation of Narula, J., that such a holding "does not appear to be affected by the purview of sub-section (3) of section 2 of the Act" could not, therefore, be said to form an integral part of the judgment which had

to construe the effect of the proviso to sub-section (3) of section 2. The observation aforesaid (italicized) has to be treated as an obiter particularly when on closer examination we have found that *Nathu's* case was correctly decided, and indeed the same conclusion had been reached by the Full Bench as well in *Khan Chand's* case (1), at page 552.

The conclusion so reached would dispose of the only point which has been raised in the letters patent appeal of *Bhoj Raj* v. *State of Punjab* (L.P.A. No. 167 of 1967) which would accordingly stand dismissed.

As regards the other point in the remaining five letters patent appeals (Nos. 47 to 51 of 1967), it has been urged in his very earnest argument on behalf of the appellants by Mr. Wasu that Bishan Dass having died before the actual allotment was made, each of his sons falls within the concept of the displaced person which under sub-section (11) of section 2 of the Act "has the meaning assigned to it in the East Punjab Displaced Persons (Land Resettlement) Act, 1949," (hereinafter called the Resettlement Act). In the Resettlement Act, a displaced person, under clause (c) of section 2, means,—

> "A land-holder in the territories now comprised in the province of West Punjab or a person of Punjabi extraction who holds land in the Provinces of North-West Frontier Province, Sind or Baluchistan or any State adjacent to any of the aforesaid Provinces and, acceding to the Dominion of Pakistan, and who has since 1st day of March, 1947, abandoned or been made to abandon his land in the said territories on account of civil disturbances, or the fear of such disturbances, or the partition of the country".

It is essential for a "displaced person" under the Resettlement Act to have been a land-holder in Pakistan and to have abandoned his lands any time since 1st of March, 1947, as an aftermath of partition or in consequence of its fear. It is submitted by Mr. Wasu that on 19th November, 1949, when the Resettlement Act was enacted, the appellants as sons of Bishan Dass had become holders of land in Pakistan, their father having died on 11th of April, 1948. It is urged that the death of Bishan Dass resulted in the devolution of his estate on his sons and they automatically became holders of land. Having

migrated with their father from West Pakistan to India, the sons, in the counsel's submission, must be deemed to have abandoned their holdings on the partition of the country. It is true that a landowner under sub-section (1) of section 2 of the Act includes an "allottee" but the sons of Bishan Dass should be regarded, according to the argument, as displaced person to whom the allotment was originally made. The argument at first sight looks attractive, but seems to break down on close analysis at more than one point. From the definition, it is implicit that a land-holder who is to be treated as a displaced person under clause (c) of section 2 of the Resettlement Act must himself have held land in West Punjab or the other specified territories now in Pakistan, and had to abandon it in anticipation or in consequence of the disturbances or the partition of the country. The sons of Bishan Dass did not hold lands in West Punjab and consequentially the question of abandonment by them does not arise. In Mr. Wasu's submission, the death of Bishan Dass before the enactment of the Resettlement Act, notionally made his sons owners of the land which must now be deemed to be held by them and abandoned after 1st March, 1947. It is not denied that the allotment itself was made in the name of Bishan Dass but Mr. Wasu seeks to pass over this initial difficulty in his way by saying that this by itself cannot resuscitate a person who is actually dead and the allotment in the name of Bishan Dass was merely made in pursuance of governmental instructions embodied in paragraph 17 of Chapter VIII of Tarlok Singh's Land Resettlement Manual, according to which:—

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

Admittedly in mutation proceedings the appellants as sons of Bishan Dass have been mentioned to be owners of one-fifth share each of the allotted land measuring 124 standard acres and $\frac{1}{4}$ unit in favour of their father. It is suggested that it was found necessary to put the name of Bishan Dass as the person to whom land was allotted as a means to provide a check at the time of comparison with the original Jamabandis to be received from Pakistan in which the name of Bishan Dass alone as the owner would have found mention.

Before further examining the contention raised by Mr. Wasu it would be well to repeat the Explanation to proviso (ii) in Sub-section (3) of section 2 of the Act, inserted by Punjab Act No. 14 of 1962 to take effect retrospectively from 15th of April, 1953:—

> "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."

That the appellants are heirs and successors of Bishan Dass admits of no doubt. Mr. Wasu submits that the land not having been allotted to Bishan Dass in his lifetime, he cannot be regarded as an allottee and in consequence the Explanation would not hurt the appellants at all. On the other hand, the appellants themselves should be regarded for all practical purposes as first allottees and their legal status must be deemed to be that of displaced persons. It is pointed out that a Division Bench of Dua, J. (now Chief Justice of the Delhi High Court) and Harbans Singh, J., in *Om Par*kash *and others* v. *Chief Settlement Commissioner, Punjab, Jullundur* (8), had held that paragraph 17 of the Land Resettlement Manual had no statutory authority for its basis and it merely embodies executive or administrative directions for general guidance, and further that this paragraph does not cover cases where deceased landholders were not displaced persons at the time of their death. Paragraph 17, according to the Bench, was only intended to provide for "cases where a landholder dies after having become a displaced person". Obviously, paragraph 17 would apply to the present cases even accordingly to the Bench decision as Bishan Dass had died after "having become a displaced person". On 15th of August, 1947, when Bishan Dass had migrated to India, he had become a displaced person and under the instructions of paragraph 17 the allotment had to be recorded in his name. Nothing much really turns on the instructions contained in paragraph 17 as we have to see independently of it whether each of the appellants is a displaced person as defined in the Resettlement Act. On a strict interpretation it apears that the status of a displaced person could be accorded to Bishan Dass and to him alone as it was he who had held land and had abandoned it as a result of partition. It is also to be noted that he had filed a claim under the East Punjab Refugees (Registration of Land Claims) Act, 1948, in which a refugee

(8) 1964 P.L.R. 266.

had been defined in precisely the same terms as a displaced person in the Resettlement Act. Bishan Dass having filed his claim as a refugee, a term which is to be equated with a displaced person, it is strange for the appellants now to urge that it is they who are displaced persons under the Resettlement Act instead of their father. Bishan Dass fulfilled the requirements of the definition of a displaced person, and having been dealt with and allotted lands as such, the language cannot be stretched in favour of his sons to treat them also as such when they are specially expected under the Explanation.

A decision of Shri B. S. Grewal as Financial Commissioner in *Pooran* v. *Jamna Bai* (9), has been cited in his support by Mr. Wasu. In that case it was observed that "an allotment cannot be made to a deceased person, therefore, where allotment is made in the name of a displaced person through his heirs, the heirs must be presumed to be the original allottees". An opposite view has been taken by another Financial Commissioner, Shri A. L. Fletcher, in *Bhulla* v. *Lachhman Dass* (10). In latter case the original allottee died before the allotment was made in his favour and the formal communication of allotment was made shortly after his death. On the contention of the sons that they should be considered as displaced persons and not as heirs of a displaced person, it was held that according to the definition of 'displaced person' in section 2(b) of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (hereinafter called the 1954-Act), it is the original allottee who was the 'displaced person' entitled to allotment of land even though the formal communication of allotment was made shortly after his death. In the opinion of the Financial Commissioner, the sons of the original allottee could, therefore, be regarded as heirs and as such covered by the Explanation to section 2(3) of the Act. It is true that the decision in *Bhulla's* case was based on the definition of displaced person in the 1954-Act. The only difference, however, is that in the case of a displaced person under the Resettlement Act, he abandons his lands while under 1954-Act he leaves his place of residence in consequence of the partition of India. The abandonment, which is a common feature of the definition in both cases, must be by a person who is a displaced person under these Acts. The decision of Shri Fletcher appears to be in consonance with the intendment of the Explanation in the proviso.

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(9) 1965 L.L.T. 131.
(10) 1965 P.L.J, 22,

Mr. Sibal, for the respondent, has led us, in Chapter II of the Land Resettlement Manual by Tarlok Singh, to the subject of 'Parcha Claim' commencing from paragraph 15, at page 38, to show that in practice it was the landowner who had actually held the land in Pakistan and had abandoned it whose claim was relevant for purposes of assessment. "A form known as the *parcha claim* was devised," according to the Manual, "in November, 1948, for extracting all information relevant to each individual's holding and for working out various steps leading to the assessment and valuation of his total claim, and to the area due to him for allotment, and for recording the final orders of allotment". Till the claim was finally settled, the information which is the subject-matter of the various columns of the *'parcha claim'* related only to the landowner who in the present case was Bishan Dass. If such a landowner happened to die before the actual allotment was determined, it could not possibly matter as the displaced person whose claim was to be settled under the Resettlement Act was the original landowner and no one else. For this reason it is submitted by the counsel that the allotment of the land in question was made in favour of Bishan Dass although he was no longer alive. The learned counsel has asked us to read the Explanation to the proviso in sub-section (3) of section 2 of the Act in this context and has contended that the concept of a 'displaced person' must of necessity receive its meaning as also its containment from the emphasis laid by the Legislature that the heirs and successors of a displaced person should be excluded from availing the concessions of proviso (ii). The land admittedly had been allotted in favour of Bishan Dass and he alone can be regarded a displaced person. Mr. Sibal has pointed our attention to certain observations made by their Lordships of the Supreme Court in *Amar Singh and others v. Custodian Evacuee Property, Punjab*, (11), where in considering the rights of quasi-permanent allottees, Mr. Justice Jagannadhadas observed at pages 605 and 606 that:—

> "It may be mentioned in this context that East Punjab Displaced Persons (Land Resettlement) Act, 1949, mentioned above, which was passed shortly after these rules were notified also defines the word 'allottee' and says that allottee means—
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> 'a displaced person to whom land is allotted by the Custodian under the conditions published with East Punjab Government Notification No. 4892/S, dated 8th July, 1949

(11) A.I.R. 1957 S.C. 599.

and includes his heirs, legal representatives and sub-lessees."

In the view of the Supreme Court, the word 'allottee' recognised not only that an allotment has to be made in favour of a displaced land-owner, but that it also enures for the benefit of his heirs and legal representatives. The first incident of allotment, according to the Supreme Court, "implicit in this is the heritability of the rights of the allottee which constitute quasi-permanent allotment . . .". It is rightly sought to be deduced from this that the heirs and successors of a displaced person are separate and distinguishable from the displaced person himself and the rights of a displaced person devolve on them.

During the course of arguments it struck us as strange that neither Bishan Dass nor his sons, according to the view canvassed by Mr. Sibal, would be able to derive benefit from the concession available to a displaced person in proviso (ii) to sub-section (3) of section 2 of the Act. Bishan Dass was not there to seek the benefit having died before the Act came into force, while the Explanation definitely excludes the appellants as heirs and successors of Bishan Dass who is to be regarded a displaced person to whom land was allotted originally. On reflection, however, we find that the appellants as the heirs and successors of Bishan Dass would have actually been losers instead of gainers if Bishan Dass had in fact received the concession of a displaced person under the proviso. The allotment of 124 standard acres and ¼ unit to Bishan Dass would have been attracted by clause (a) of proviso (ii) to sub-section (3) of section 2 of the Act and the holding would have been reduced to 50 standard acres as permissible area. Thus, the share of each of the appellants would have been about 10 standard acres if the 'permissible area' had been determined in the lifetime of Bishan Dass. In retrospect, it cannot, therefore, be said that Bishan Dass has actually been deprived of some benefit, or that his sons have in fact been precluded from an advantage accruing from a statutory concession in consequence of what we have found to be the concept of a "displaced person" in proviso (ii) read with the Explanation of sub-section (3) of section 2 of the Act.

It is of course true that the allotment in favour of Bishan Dass was computed after a number of graded cuts as provided in the Land Resettlement Manual, had been effected. Mr. Wasu submits that it would be a denial of justice and fairness to the appellants if they are

further to forego the privilege of displaced persons who are entitled to retain an area up to 50 standard acres and of 100 ordinary acres if the allotment is in terms of ordinary acreage. We have already observed that the words of a statute have to be construed in their plain grammatical meaning and as there is no obscurity or uncertainty in the words, the ground of hardship cannot be pleaded to give a different meaning to statutory language employed in the provisions of section 2(3) of the Act. On this aspect of the case our view, therefore, is that the appellants not being displaced persons, as defined in the Resettlement Act, cannot avail of the concession available to such persons under clause (b) of proviso (ii) to sub-section (3) of section 2 of the Act and the holding of each appellant on conversion into ordinary acreage being 88, he cannot be regarded as a 'small landowner'. The five letters patent appeals Nos. 47 to 51 of 1967, therefore, must be dismissed also.

In the result, all these appeals are dismissed, but in the circumstances there would be no order as to costs.

PANDIT, J.—In order to take the benefit of the proviso (ii) to sub-section 3 of section 2 of the Punjab Security of Land Tenures Act, 1953 (hereinafter called the Act), the appellants had to prove two things, (a) that they were displaced persons; and (b) that they had been allotted the land in dispute. The first question for decision, therefore, is whether they were displaced persons.

The first measure of legislation which was introduced by the Punjab Government for the registration of claims of those persons who had left property in Pakistan and come to India owing to the partition of the country, was the East Punjab Refugees (Registration of Land Claims) Ordinance, 1948 (Ordinance VII of 1948) which was promulgated on 3rd of March, 1948. In that Ordinance the word 'claim' had been defined in section 2(a) as under:—

> "Claim means a statement of loss or damage suffered by a refugee since the 1st day of March, 1947, in respect of his land within the territory now comprised in the Provinces of West Punjab, North-West Frontier Province, Sind or Baluchistan or in any state adjacent to the aforesaid provinces and acceding to the Dominion of Pakistan.

The term 'refugee" occurred in section 2(d) which said:—

> "Refugee means a landowner in the territories now comprised in the Province of West Punjab, or who or whose ancestor

migrated as a colonist from Punjab since 1901 to the Province of North-West Frontier Province, Sind or Baluchistan or to any State adjacent to any of the aforesaid Provinces and acceding to the Dominion of Pakistan, and who has since the 1st day of March, 1947, abandoned or been made to abandon his land in the said territories on account of civil disturbances, or the fear of such disturbances, or the partition of the country;"

According to the definition of the word claim, it was only Bishan Dass who could file the statement of loss and damage in respect of his land left in Pakistan. Again, it would be Bishan Dass who would answer the definition of a 'refugee' given above, because it was he who was a land-holder in the territories now comprised in the province of West Pakistan and had since the 1st day of March, 1947, abandoned or made to abandon his land there on account of civil disturbances or the fear of such disturbances or the partition of the country. The appellants, who were his sons, could neither make a claim nor could they be held to be refugees. This Ordinance was then repealed by the East Punjab Refugees (Registration of Land Claims) Act, 1948 (East Punjab Act No. XII of 1948), which came into force on 3rd of April, 1948. In that Act also the definition of the words 'claim' and 'refugee' was the same as in the East Punjab Ordinance No. VII of 1948.

Then came the East Punjab Displaced Persons (Land Resettlement) Ordinance (East Punjab Ordinance No. XIV of 1949) which was published in the East Punjab Gazette Extraordinary of 25th of July, 1949. This Ordinance had been issued to provide for the allotment and lease of evacuee lands in East Punjab. In this Ordinance the word 'displaced person' had been defined in section 2(c) as follows:—

" 'Displaced person' means a landholder in the territories now comprised in the Province of West Punjab or a person of Punjabi extraction who holds land in the Provinces of North West Frontier Province, Sind or Baluchistan or any State adjacent to any of the aforesaid Provinces and acceding to the Dominion of Pakistan, and who has since the 1st day of March, 1947, abandoned or been made to abandon his land in the said territories on account of civil disturbances, or the fear of such disturbances or the partition of the country."

It would be seen that the definition of a 'displaced person' in this Ordinance was almost the same as that of a 'refugee' in the East Punjab Act No. XII of 1948. This Ordinance was replaced by the East Punjab Displaced Persons (Land Resettlement) Act, 1949 (East Punjab Act XXXVI of 1949), where the definition of the word 'displaced person' is the same which was given in the East Punjab Ordinance No. XIV of 1949. The definition of a displaced person as given in the East Punjab Displaced Persons (Land Resettlement) Act, 1949 was adopted in the Punjab Security of Land Tenures Act, 1953,—*vide* Section 2(11) of the Act.

By virtue of this definition, in order to become displaced persons, the appellants had to establish two things, (i) that they were land-holders in the territories now comprised in the province of West Pakistan; and (ii) that they had, since the 1st day of March, 1947 abandoned or were made to abandon the said land on account of civil disturbances or fear of civil disturbances or the partition of the country. Now we have to see whether they were land-holders in West Pakistan and they had abandoned their land since the 1st of March, 1947, on account of either of the three things mentioned in the definition of a displaced person quoted above. There is no manner of doubt that in Pakistan, their father Bishan Dass owned land and in his presence the sons had no right in it. It can, therefore, be safely said that it was Bishan Dass, who was holding the land in West Pakistan and it was he who had abandoned it since the 1st of March, 1947, on account of civil disturbances or the fear of civil disturbances or the partition of the country. It was only that person who held the land in Pakistan who could have abandoned it. Consequently, Bishan Dass would come within the definition of a displaced person as given above, because he alone held the land there when he abandoned it after 1st of March, 1947. It was not possible to deny, and it was more or less conceded by the learned counsel for the appellants that Bishan Dass was undoubtedly a displaced person. On 13th of March, 1948, it was he who had filed the claim before the Rehabilitation authorities for the land left by him in Pakistan. The process of the verification of his claim naturally took some time, but unfortunately while that process was still going on, he died on 11th of April, 1948, before any land was actually allotted to him. The said allotment was made on 26th of August, 1949 in his name, though he was dead on that date. Later, on 17th of February, 1953, the mutation of that land was sanctioned jointly in favour of his five sons, the appellants, in equal shares. Subsequently on 2nd of January, 1956, permanent rights were also granted to them. The

argument of the learned counsel for the appellants was that on the day when the allotment was made in the name of Bishan Dass, i.e., on 26th of August, 1949, the appellants fulfilled the two requirements mentioned in the definition of the word 'displaced person' and therefore, they should also be held to be displaced persons. His process of reasoning was that on 26th of August, 1949, Bishan Dass was admittedly dead and the land which had been left by him in Pakistan would be inherited by them on 11th of April, 1948, when he died, because according to the learned counsel, the inheritance could not be held in abeyance. It would, therefore, be said that Bishan Dass's land in Pakistan was held by them and they were the landholders *qua* that land, with the result that they, in that manner, satisfied the first condition. As regards the second condition, according to the learned counsel, the appellants could safely say on 26th of August, 1949, that they had abandoned the said land since 1st of March, 1947, on account of fear of civil disturbances or the partition of the country, as they had also come along with their father. In that way, both the conditions had been satisfied and they could, therefore, be called displaced persons.

In my opinion, there is no merit whatsoever in this contention. When admittedly Bishan Dass, owned land in Pakistan and he abandoned it on the partition of the country and then filed his claim for the same before the Rehabilitation authorities, there was no question of the appellants' holding that land again in Pakistan on his death, because Bishan Dass had already abandoned it. It follows, therefore, that they were not landholders. That being so, they could not have abandoned the same, because a person must first be a landholder before he can abandon the land. This apart, to me it appears that the act of abandonment can only be once. The same land cannot first be abandoned by the father and later on by son and if in the mean time the son had also died, by the grandson. The definition of a displaced person as given in the Act, clearly shows that the framers of the Act were only thinking of the Person who actually held the land in Pakistan and it was he alone who could have abandoned it and not his son or grandson. Under these circumstances, it was Bishan Dass alone who could be held to be a displaced person within the meaning of the Act. It was he alone who was entitled to the compensation that the Government gave in lieu of the land left by him in Pakistan. If he had been alive at the time of the receipt of the compensation, he would have got it and on his death the compensation would be inherited by his legal heirs. Assume for the sake of argument that the Government had not offered any

compensation to the displaced persons, then neither Bishan Dass nor the appellants could have got anything. I would, therefore, hold that the appellants were not displaced persons.

In that view of the matter it is unnecessary to decide as to whether any land was allotted to them or not. When they did not satisfy the first condition of being displaced persons, they would not come within the proviso (ii) to section 2(3) of the Act, even if they satisfied the second condition.

Let us, however see as to whether any land was allotted to them and the appellants satisfied the second condition. It cannot be denied that the land was actually allotted in the name of Bishan Dass on 26th of August 1949. This fact is proved on the record. The argument of the learned counsel for the appellants was that when Bishan Dass was dead on that date, no allotment could be made in the name of a dead person and in law it should be held that the said allotment had been made in the name of his legal heirs, namely the appellants.

There is no substance in this contention as well. In the first place, we have to see in whose favour the allotment had actually been made by the Rehabilitation authorities and as I have said, there is no doubt about this question of fact that the allotment had been made in the name of Bishan Dass and not his sons. Secondly, it is pertinent to mention that even though Bishan Dass had died on 11th of April, 1948 the appellants never put in any claim before the Rehabilitation authorities that the said allotment be made in their names and not in the name of their deceased father, especially when according to them, they could claim that on the death of their father the land left by him in Pakistan should be divided amongst them in five equal shares and on that basis they could have also got more land, because the graded cut in their case would have been less. The reason for not doing so was that if they had put forward that claim, they would not have got any allotment whatsoever, because they would have been met with the plea, as held by me above, that they did not come within the definition of a displaced person, inasmuch as they were neither landholders in Pakistan nor had they abandoned the said lan dsince 1st of March, 1947. Moreover the Rehabilitation authorities in those days also allotted land in favour of those whose names appeared in the *Jamabandis* received from Pakistan, whether they were dead or alive on that date whosoever

was shown the owner of the land in those revenue records, he was allotted land. The compensation could obviously have been given to the real owner. If he was found to be dead, his heirs could distribute that compensation amongst themselves according to the law by which they were governed. In paragraph 17 of the 'Land Resettlement Manual', by Sardar Tarlok Singh, which book according to the Supreme Court in *Dunichand Hakim and others* v. *Deputy Commissioner (Deputy Custodian, Evacuee Property), Karnal State of Punjab and others* (12) has a stamp of authority, it was clearly mentioned—

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

It was argued by the learned counsel for the appellants that this paragraph in the Resettlement Manual had no statutory authority. This submission was based on a Bench decision of this Court in *Om Parkash and others* v. *Chief Settlement Commissioner, Punjab, Jullundur and others* (8). Be that as it may, these instructions were in fact being followed in those days by the authorities and, as I have already held above, the allotment in the case of a person, who owned the land in Pakistan and had abandoned it since the 1st day of March, 1947, on account of civil disturbances or partition of the country and had come to India where he had died, could be made only in his name and not in the name of his heirs, because they did not come within the definition of a 'displaced person' as given in the Act. This conclusion of mine does not run counter to the law laid down in *Om Parkash's case.* On the other hand, that authority fully supports the view I have taken. There, it was held:—

> "Para. 17 of the Land Resettlement Manual does not cover cases where deceased landholders were not displaced persons at the time of their death. It only provides for cases where a landholder dies after having become a displaced person."

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(12) A.I.R. 1954 S.C. 150.

Under these circumstances, in my opinion, the appellants have failed to prove that they were covered by proviso (ii) to section 2(3) of the Act, inasmuch as they have neither been able to prove that they were displaced persons nor that the land had been allotted to them. The explanation (ii) to this proviso added by Punjab Act XIV of 1962, fully covered their case. This explanation says that for the purposes of determining the permissible area of a displaced person, provisions of proviso (ii) would not apply to the heirs and successors of the displaced person to whom land was allotted. As already held above, the land was actually allotted in the name of Bishan Dass who was a displaced person and the appellants were his heirs and successors.

With these observations, I agree with my learned brother Shamsher Bahadur, J.

NARULA, J.—I also agree that all these appeals be dismissed without any order as to costs.

R.N.M.

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