A UNION OF INDIA & ORS.

v.

HAR DAYAL

(Civil Appeal No. 4185 of 2009)

NOVEMBER 24, 2009

B **[R.V. RAVEENDRAN AND K.S. RADHAKRISHNAN, JJ.]**

Constitution of India, 1950:

Article 226 – Writ petition claiming allotment of land under Displaced Persons (Compensation and Rehabilitation) Act, C *1954 – Enormous delay in filing of – Writ petition entertained by High Court and payment of compensation at the rate prevailing on the date of filing ordered – HELD: The single Judge and the Division Bench of the High Court have totally ignored the enormous delay of more than 30 years on the part* D *of claimant in approaching the Court – The Supreme Court has repeatedly held that merely giving representation will neither extend the limitation nor wipe out the delay and laches - Further, claimant and his brother were categorically informed in September, 1989 that due to non-availability of agricultural land, they were entitled only to cash equivalent of* E *compensation as per the rules and, therefore, Rs.383.50 each being their share of compensation was to their credit and they could draw the same – Claimant could have challenged that order on the ground that he was entitled to land and not cash – But he did not do so – Refusal to allot the balance land, attained* F *finality – Obviously, it could not be reopened by filing a writ petition in 1996, more than 45 years after verification of claim, and 7 years after categorical refusal to allot land – Writ petitions ought to have been rejected on the ground of delay and laches – There was no question of rewarding delay on the part of* G *claimant by directing payment of current market value of 1996 for the undelivered land, contrary to the Rules – Besides, orders of single Judge and Division Bench are also bad for vagueness – The single Judge held that as no land was available, claimant was not entitled to land but nevertheless held that compensation of Rs.383.50 calculated in accordance*

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with the Rules, amounted to a pittance after all these years and, therefore, he should be given the market value of land as on the date of writ petition – But different areas of Delhi have different market values – In fact, there is no rural agricultural land available and no standard market price for agricultural land – Value of land is always with reference to a particular land or a land in a specified area – Government cannot be expected to calculate the value of 'land' in 1996 and pay the value as compensation – On the facts and circumstances, judgment of High Court directing payment of market value as in 1996 cannot be sustained – Writ petition ought to have been dismissed on the ground of delay and laches – But as single Judge and Division Bench of the High Court have exercised the discretion to ignore the delay and entertain the writ petition, the discretion exercised is not interfered with – As the rules contemplated allotment of land being staggered depending upon availability of land, during pendency of the appeal, the appellants very fairly offered to allot the respondent's share in remaining agricultural land in some rural area in Rajasthan – Therefore, appellants would deliver claimant's share to the extent of 2 std. acres and 8.11/12 units of agricultural land in the State of Rajasthan – It is clarified that claimant will have no choice in the matter and whatever land is offered in Rajasthan, should have to be accepted – If he is not willing to accept such land, he may receive the sum of Rs.383.50 – Offer of land by Government in the instant case, being peculiar to the facts of the case, shall not be treated as a precedent in any other stale claims of other displaced persons – Displaced Persons (Claims) Act, 1950 – Displaced Persons (Compensation and Rehabilitation) Act, 1954 – Rehabilitation of displaced persons.

S.S. Rathore vs. State of M.P. **AIR 1990 SC 10, referred to.**

Case Law Reference :

AIR 1990 SC 10	**referred to**	**Para 7**

A CIVIL APPELLATE JURISDICTION : Civil Appeal No. 4185 of 2006.

From the Judgment & Order dated 31.01.2005 of the High Court of Delhi in LPA No. 920 of 2003.

CVS Rao, Sushma Suri, for the Appellants.

B Vinay Kumar Garg, Jyoti, for the Respondent.

The Order of the Court was delivered by

ORDER

C **R.V. RAVEENDRAN, J.** 1. The respondent claims to be the Karta of the 'HUF of Tek Chand' consisting of himself and his two brothers (Harichand and Lachhman Das). Respondent's family migrated from Pakistan to India in 1947. Respondent and his two brothers filed claims before the competent authority on 22.9.1950, as refugees/displaced persons seeking allotment of D land as compensation in lieu of their lands in Pakistan. Their claim was verified and registered for 7 Standard Acres and 3.1/4 Units vide order dated 5.11.1952 by the Claims Officer, Delhi, under the Displaced Persons (Claims) Act, 1950. Towards partial satisfaction of the said verified claim, initially 5 Standard E Acres and 4.1/3 Units situated in Bawana, Delhi was allotted and delivered to them. The question of allotment of remaining land was pending for several years and in the year 1965 the Office of the Regional Settlement Commissioner informed the Land Allotment Officer that after taking note of the land that was F already allotted in partial satisfaction, the balance agricultural land allotted to them (respondent and his two brothers) was only 2 Standard Acres and 8.11/12 Units.

2. The respondent claims that he was thereafter pursuing his request for allotment of the remaining land, on behalf of G himself and his two brothers as Kartha of HUF. It is stated that the file was not traceable for some years in the concerned Ministry and subsequently the file was traced and transferred to the Land and Building Department. Ultimately by orders dated 12.9.1989 and 21.9.1989, the respondent and his two brothers were

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categorically informed by the Ministry of Home Affairs (Rehabilitation Division-Settlements) that no agricultural land was available in the rural areas of Delhi for allotment, and Rs.383.50 being the compensation payable to each of them, corresponding to the extent which was not allotted, was credited to their account in terms of the relevant rules. Even after the receipt of the said communication the respondent and his brothers did not take any legal action. In the year 1994, the respondent obtained a letter of recommendation from a Central Minister and tried to revive the stale issue. The representation was again rejected. It is thereafter, in the year 1996, that the respondent filed a writ petition in the Delhi High Court seeking allotment of the land.

3. A learned Single Judge of the High Court allowed the writ petition in part with costs of Rs.5000/- on 16.5.2003. The learned Single Judge was of the view that after all these years it was not possible to issue any direction for allotment of agricultural land to the respondent as such land was not available. He was, however, of the view that the appellants, due to their carelessness, had deprived the respondent of the allotment of the land. Therefore he directed the appellants to work out the market value of the extent of land to which respondent was entitled as on the date of the filing of the writ petition in 1996 and make payment within two months. The appeal filed by the Union of India was dismissed by a Division Bench of the High Court on 31.1.2005. The said order is challenged in this appeal by special leave.

4. The claim of respondent and his brothers for compensation by way of agricultural land was verified and certified as 7 Standard Acres and 3.1/4 units in 1952. Depending on the availability, 5 Standard Acres and 4.1/3 units of land was allotted and delivered to them. In 1965, it was confirmed that as per the verified claim, the respondent and his brothers were still entitled to 2 Standard Acres and 8.11/12 Units. As per the rules, though normally compensation was payable in terms of rural agricultural land from the compensation pool created with

A evacuee lands, cash compensation was payable in the event of non-availability of rural agricultural land. The cash compensation payable under the Rules was Rs.450/- per standard acre and nothing more. It is in these circumstances, due to non-availability of agricultural land, he and his brothers were informed that cash
B equivalent of compensation, that is Rs.383.50 each was credited to them and they could draw the same.

5. The respondent chose to approach the High Court only in 1996 seeking allotment of the remaining land. He contends that under the provisions of the Displaced Persons
C (Compensation & Rehabilitation) Act, 1954, the central government had to take necessary steps for the custody, management and disposal of the lands in the compensation pool and make it available to the displaced persons; that he could not be denied allotment of the balance land as per the verified claim,
D on the ground that the evacuee lands were encroached; that as he had settled down in Delhi, under the Rules there was a duty cast on the appellants to allot land in the neighbourhood of Delhi; and that if the evacuee lands are not available on account of encroachment, it is the duty of Central Government to evict the
E encroachers and give him the land as per the entitlement.

6. On the other hand, the appellants pointed out that the respondent was claiming allotment in pursuance of a claim verified as long back as 22.9.1950; that he had not pursued the matter for one reason or the other since the year 1965 when the
F Settlement Commissioner certified that the respondent and his brothers were still entitled to the balance of 2 Standard Acres and 8.11/2 Units; that from 1965 to 1989, the respondent did not take any legal action; that in 1989, the respondent was informed that he was only entitled to compensation as provided under the
G Act and the Rules as no land was available; that even after such categorical rejection he did not approach the court and in the circumstances, the writ petition filed in the year 1996, was liable to be rejected on the ground of delay and laches. It is submitted that having slept over his rights for over 40 years, the respondent
H can not belatedly demand that the encroachers should be

removed and the land should be made available. It was submitted that the Act and Rules contemplated payment of compensation to displaced persons, usually in the form of allotment of agricultural land situated in a rural area, but where land was not available, the rules contemplated payment of compensation as provided in the Rules (at the rate of Rs.450/- per acre) and under no circumstances, the respondent could claim anything more.

7. The learned Single Judge and the Division Bench have totally ignored the enormous delay of more than 30 years on the part of the respondent in approaching the Court. This Court has repeatedly held that merely giving representation will neither extend the limitation nor wipe out the delay and laches. [See : *S.S. Rathore vs. State of MP* – AIR 1990 SC 10]. Further the respondent and his brothers were categorically informed in September, 1989 that due to non-availability of agricultural land, they were entitled only to cash equivalent of compensation as per the rules and therefore, Rs.383/50 each being their share of compensation was to their credit and they could draw the same. Respondent could have challenged that order on the ground that he was entitled to land and not cash. But he did not do so. The refusal to allot the balance land whether right or wrong, attained finality. Obviously, it could not be reopened by filing a writ petition in 1996, more than 45 years after the verification of the claim, and 7 years after categorical refusal to allot land. The writ petitions ought to have been rejected on the ground of delay and laches. There was no question of rewarding the delay on the part of respondent, by directing payment of current market value of 1996 for the undelivered land, contrary to the Rules.

8. The orders of the learned Single Judge and Division Bench are also bad for vagueness. The learned Single Judge held that as no land was available the respondent was not entitled to land but nevertheless held that the compensation of Rs.383.50 calculated in accordance with the Rules, amounted to a pittance after all these years and therefore he should be given the market value of the land as on the date of the writ petition. But different

A areas of Delhi have different market values. In fact, there is no rural agricultural land available and no standard market price for agricultural land. The value of land is always with reference to a particular land or a land in a specified area. We fail to understand how the appellants can be expected to calculate the value of the B 'land' in 1996 and pay him the value as compensation.

9. On the facts and circumstances, the judgment of the High Court directing payment of the market value as in 1996 cannot be sustained. The writ petition ought to have been dismissed on the ground of delay and laches.

C 10. But as the High Court (learned Single Judge and Division Bench) have chosen to exercise the discretion to ignore the delay and entertain the writ petition, we do not propose to interfere with the exercise of discretion. As the rules contemplated allotment of land being staggered depending D upon availability of land, during the pendency of this appeal, the appellants very fairly offered to allot the respondent's share in remaining agricultural land in some rural area in Rajasthan. This has been referred to in the orders of this Court dated 5.8.2005, 31.7.2008 and 22.10.2009. We therefore dispose of the appeal E recording the submission that appellants will deliver the respondent's share in the extent of 2 Std. Acres and 8.11/12 Units of agricultural land in the State of Rajasthan to appellant within six months from today. It is clarified that appellant will have no choice in the matter and whatever land is offered in Rajasthan, F should have to be accepted. If he is not willing to accept such land, he may receive the sum of Rs.383.50.

11. The offer of land by appellant in this case, being peculiar to the facts of this case shall not be treated as a precedent in any other stale claims of other displaced persons.

G R.P. Appeal disposed of.