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SMT. PRITAM KAUR

v.

DY. SECRETARY, MINISTRY OF HOME AFFAIRS AND ORS.

DECEMBER 5, 1996

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[K. RAMASWAMY AND K. VENKATASWAMI, JJ.]

*Displaced Persons (Compensation and Rehabilitation) Act, 1954 : Sections 2(b)(e) and 4.*

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*Displaced persons—Claim for rehabilitation compensation—Requirements of—Respondents and their father residents of West Pakistan—Respondents had migrated to India in 1947—Father of respondents died in Pakistan in 1955—Respondents filed claim for rehabilitation compensation on December 19, 1955—Competent authorities held that they are entitled to compensation—Consequently land in possession of appellant allotted to*

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*them—Appellant unsuccessfully challenged the proceedings—Appeal preferred before Supreme Court—Held the respondents as legal representatives succeeded by intestate-succession to the estate left by their father in Pakistan—They are displaced persons they did not leave behind them, while migrating to India, any immovable property of their own in West Pakistan—They did not file any claims on or before May 31, 1953, as enjoined in*

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*Section 2(e)—Nor were their claims verified before June 30, 1955 as enjoined in Section 4(1)—Therefore, the findings recorded by the authorities that the properties are the joint family properties in which the respondent Nos. 4 and 5 had a share and, therefore, they are entitled to file their claims, are ex facie incorrect—The application filed by respondents in December 1955 was clearly*

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*barred and was not warranted—The entertainment of application and disposal by the authorities, though at the instance of the revisional authorities, was not in accordance with law.*

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CIVIL APPELLATE JURISDICTION : Civil Appeal No. 429 of

1986.

From the Judgment and Order dated 1.8.85 of the Delhi High Court in C.W.P. No. 1377 of 1985.

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S.K. Bagga, Seeraj Bagga, Ms. Tanuj Bagga and S. Bagga for the Appellant.

Y.P. Mahajan for the Respondent Nos. 1-3.

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Ashok Kumar Sharma (NP) for the Respondent No. 4-5.

The following Order of the Court was delivered :

This appeal by special leave arises from the order of the Delhi High Court, made on August 1, 1985 dismissing the writ petition on the ground that the conclusion reached and the findings recorded by the authorities under the Displaced Persons (Compensation and Rehabilitation) Act, 1954, (44 of 1954) (for short, the 'Act') are a question of fact and exercising the power under Article 226 of the Constitution could not be reopened by the Court. With a view to find out whether the conclusion reached by the learned Judges is correct in law, it is necessary to state the material facts.

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One Chandu Mal Sippy, father of respondent Nos. 4 and 5, Khushi Ram Sippy and Narain Dutt Sippy, was a resident of Nawabshah in West Pakistan. While the father and one of his brothers remained in Pakistan, after the partition of India domain into Pakistan and India, the said respondents migrated in 1947 to India. Their father died some time in the last week of April 1955 in Pakistan. They filed their application under Section 4 of the Act on December 19, 1955 claiming rehabilitation compensation under the Act. In lieu thereof, the authorities at different stages verified the claims and found them entitled to the compensation and consequentially the land in possession of the appellant was allotted to them. The appellant had challenged in the proceedings before the authorities under the Act but was unsuccessful. The High Court confirmed it. Thus, this appeal by special leave.

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The question arises : whether the respondent 4 and 5, though are displaced persons, are entitled to their claims verified under the Act? With a view to appreciate their claims, it is necessary to see the relevant provisions in the Act. Section 2(b) of the Act defines 'displaced person' to mean "any person who, on account of the setting up of Dominions of India and Pakistan, or on account of civil disturbances or the fear of such disturbances in any area forming part of West Pakistan, has, after the first day of March, 1947, left or been displaced from his place of residence in such area and who has been subsequently residing in India, and includes any person who is resident in any place forming part of India and who for that reason is unable or has been rendered unable to manage, supervise

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A or control any immovable property belonging to him in West Pakistan, and also includes the successors-in-interest of any such person." Section 2(e) defines 'verified claim' thus :

B (e) "verified claim" means any claim registered under the Displaced Persons (Claims) Act, 1950 in respect of which a final order has been passed under that Act or under the Displaced Persons (Claims) Supplementary Act, 1954, [and includes any claim registered on or before 31st day of May, 1953, under the (East Punjab Refugees (Registration of Land Claims) Act, 1948] or under the Patiala Refugees (Registration of Land Claims) Ordinance, 2004, and verified by any authority appointed for the purpose by the Government of Punjab, the Government of Patiala or the Government of Patiala and Punjab States Union, as the case may be, which has not been satisfied wholly or partially by the allotment of any evacuee land under the relevant notification specified in Section 10 of this Act, but does not include-

D (i) any such claim registered in respect of property held in trust for a public purpose of a religious or charitable nature;

E (ii) except in the case of a banking company for the purpose of sub-clause (i) of clause (b) or sub-section (3) of Section 6, only -

(a) any such claim made by or on behalf of any company or association, whether incorporated or not;

F (b) any such claim made by a mortgagee or other person holding a charge or lien on immovable property belonging to a displaced person in West Pakistan;"

Section 4(1) of the Act envisages that :

G "4.(1) The Central Government shall, from time to time, but not later than the thirtieth day of June, 1955, by notification in the Official Gazette, require all displaced person having a verified claim to make applications for the payment of compensation and any such notification may be issued with reference to displaced persons residing in any State or in any one of a group of States.

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(2) Every displaced person who, by a notification issued under sub-section (1), is required to make an application for the payment of compensation shall make such application in the prescribed form to the Settlement Officer having jurisdiction, within three months of the date of the notification;" A

The rest of the details are not necessary for the purpose of this case. B

A reading of these provisions does indicate that a displaced person must be a person who on account of the division of the Dominion of India, into India, i.e., Bharat and Pakistan, on account of civil disturbances or the fear of such disturbances in any area now forming part of West Pakistan, has after the first day of March, 1947, left West Pakistan or been displaced from his place of residence in such area and who has been subsequently residing in India and who for that reason, is unable or has been rendered unable to manage, supervise or control any immovable property belonging to him in West Pakistan. In other words, a displaced person must have left West Pakistan before the specified dates and he must have left behind him, while migrating from West Pakistan and settlement in India, immovable property belonging to him, which, on account of his displacement, he was unable to manage, supervise or control. Such a person is required to file his claims either under the Act, or under Displaced Persons (Claims) Supplementary Act, 1954 and to include any claim registered on or before 31st day of May, 1953 under East Punjab Refugees (Registration of Land Claims) Act, 1955 or under the Patiala Refugees (Registration of Claims) Ordinance, 2004 and verified by any authority appointed for the purpose by the Government of Punjab, the Government of Patiala or the Government of Patiala and East Punjab States Union, as the case may be, which has not been satisfied wholly or partially by the allotment of any evacuee land under the relevant notification specified in Section 10 of the Act. The exclusionary clauses are not relevant for the purpose of this case. C D E F

In paragraph 9 of the SLP filed in this Court, the appellants have specifically stated thus : G

"On the death of their father the present respondents No. 4 and 5 filed an application bearing No. RG/95/B/E/144, which is on record of the case at pages 41-43. In column B(V)(2) at page 2 of the RG application, the en... reads as under : H

A	If land stands in revenue records in the name of anyone other than the applicant and if so how applicants are entitled to the land as determined?	In the name of my father late Diwan Chandu Mal, R.B. Jagat Rai Sipahi, Malani, who died on the field of Pakistan on 27.4.55 and on whose death property devolves on me and my only brother Mr. Khushi Ram Chandu Mal for whom I am filing as Karta of the Joint family."
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- C Though the respondents have been served for this averment and are appearing through counsel, they have not filed any counter-affidavit disputing the correctness of the averment made in the application. Accordingly, we proceed on the basis that this is the correct averment made by them in their application. Their application, thus, discloses that their father died on April 27, 1955 in Pakistan; on his demise Narain Dutt Sippy, himself and D Khushi Ram Sippy are the legal representatives succeeded by interstate-succession to the estate left by their father in Pakistan. Accordingly, they came to file the application under Section 4(1) in December 1955.

- E The question, therefore, is : whether the respondents have satisfied the requirements of law to have the claims settled under the Act in their favour? It is seen that though they are displaced persons, they did not leave behind them, while migrating to India, any immovable property of their own in West Pakistan. They did not file any claims on or before May 31, 1953, as enjoined in Section 2(e) of the Act nor are their claims verified F before June 30 1955 as enjoined in Section 4(1). The application for claim for compensation was not filed before June 30, 1955.

- G From the evidence, it appears that, admittedly, they filed their applications in December 1955. Under these circumstances, the findings recorded by the authorities that the properties are the joint family properties in which the respondent Nos. 4 and 5 had a share and, therefore, they are entitled to file their claims, are *ex facie* incorrect in view of the admission made by Narain Dutt Sippy by himself and on behalf of Khushi Ram Sippy, his brother, that they succeeded, by intestate succession, to the property left by his father on his demise on April 27, 1955 in Pakistan. H Therefore, this is not a case of their bearing immovable property at the

time of their displacement. On the other hand, they have succeeded to the immovable property by intestate succession left by his father in Pakistan in April 1955, on his demise. A

The question, therefore, arises : whether such a claim can be registered under the Act after the expiry of the limitation prescribed under the Act and whether the authorities were justified to register and verify the same? In fact, Section 4(1) itself gives power for making an application of the verified claims. In other words, the claims registered under the Act or the Supplementary Act, 1954 or the States Acts referred to earlier, could be verified before the appropriate date and they alone are entitled to make the application by a notification before June 30, 1955. In view of the admission that the application came to be made in December 1955, the application is clearly barred and is not warranted. The entertainment of application and disposal by the authorities, though at the instance of the revisional authorities, is not in accordance with law. B C

It is stated that the appellant also is a displaced person, though he was found to be in excess of the prescribed standard acres, Shri S.K. Bagga, learned senior counsel appearing for the appellants, contends that by operation of Rule 62 of the Rules, he is entitled to purchase the land as per the procedure prescribed thereunder. When we asked the learned counsel to place before us the order allotment and all the details, he was unable to place any of the material before us. As a result, we cannot go into that question. If law permits and the appellant is entitled in accordance with law, it may be open to him to avail of the remedy in accordance with law. D E

The appeal is accordingly allowed. The order of the High Court and that of the authorities stand set aside. No costs. F

T.N.A.

Appeal allowed.