

CHARAN SINGH ETC.

v.

STATE OF PUNJAB AND ORS. ETC.

NOVEMBER 27, 1996

[K. RAMASWAMY AND G.T. NANAVATI, JJ.]

*Nazool Land Rules, 1956 :*

*Government land—Grant to appellants—Scheduled Castes—Lease of uncultivable waste land for ten years—Expiry of lease—Appellants reclaimed the land and also set up tube-wells and cultivated the land—Appellants remained in possession after expiry of lease—Eviction proceedings—Order of eviction upheld by High Court—Appeal—Contention that instead of treating the appellants as unauthorised occupant, he should be deemed to have been assigned the land as per the Nazool Land Rules, 1956—Held, the Government was not justified in taking eviction proceedings in view of the facts and circumstances of the case—The appellants having been inducted into possession reclaimed the land and remained in possession after the expiry of the lease, the Government is required to regularise their possession and assign the lands in their possession in accordance with its policy—Direction issued to authorities to regularise possession of appellants with necessary conditions—The appellants shall remain in possession until the regularisation is done and shall enjoy the lands without any sub-letting or alienation thereof.*

*Constitution of India, 1950 : Articles 38, 39(b) and 46.*

*Economic and Social Justice—Duty of State to render—Protection of weaker section of society and Scheduled Castes and Scheduled Tribes from exploitation.*

*Murlidhar Dayandeo Kesekar v. Vishwanath Pandu Barde & Anr., [1995] Supp. 2 SCC 549 and R. Chandevaram and Ors. v. State of Karnataka and Ors., [1995] 6 SCC 309, referred to.*

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 15402 of 1996 Etc.

From the Judgment and Order dated 9.12.93 of the Punjab & Haryana High Court in C.W.P. No. 171 of 1985.

A V.C. Mahajan, P.N. Puri, Rajiv Garg, N.D. Garg, A.S. Chahil, Ms. S. Janani and Manoj Swarup for the appearing parties.

The following Order of the Court was delivered :

B Substitution allowed.

Leave granted. We have heard learned counsel on both sides.

The facts in appeal arising out of SLP (C) No. 8269/94 are sufficient for disposal of all the matters by common judgment.

C The appellant-Charan Singh, a member of the Scheduled Castes, was granted 55 Kanals 15 Marlas of the land situated in the revenue estate of Katkopa in Faridkot District of Punjab State as per the policy. It is now not in dispute that in 1962, he was granted lease of uncultivable waste land and he reclaimed the land and also set up tube-well and was cultivating the land. The said lease expired in 1972. Thereafter, he was found to be in unauthorised occupation of such land. Action was taken for his eviction. He challenged the action in various proceedings. Ultimately, in the impugned order it was held that since he was a lessee and the lease stood expired by efflux of time, he had no right to remain in possession thereof. Accordingly, the order of eviction was upheld by the High Court.

E Shri V.C. Mahajan, learned senior counsel for the appellant, contends that since the appellant is a member of Scheduled Castes the Government had allotted the and which originally belonged to Maharaja of Faridkot; a vast extent of land was found in possession of Maharaja of which 38,000 was taken from Maharaja and 20159 kanal, 2 marlas was converted into nazool land; the Government had taken a decision to allot this nazool land to the members of the Scheduled Castes. He placed before us the relevant proceedings issued by the Government in that behalf. We find from the proceedings and orders made from time to time that either the nazool land or the Government surplus land was directed to be assigned initially to the Co-operative Societies composed of members of Scheduled Castes and later it was relaxed in favour of the individual members. It is, therefore, contended by Shri Mahajan that instead of treating the appellant as unauthorised occupant, he should be deemed to have been assigned the land as per the Nazool Land Rules, 1956 then in vogue. Instead, the appellant was sought to be evicted. Therefore, the

action taken by the respondent-Government is not correct in law. Shri A  
Manoj Swarup, learned counsel for the State, contends that the land was,  
though assigned for 10 years, the Government land. The Government has  
got power to assign to the persons as per the procedure in vogue. Pending  
the appeals in this Court, possession was taken and the land was auctioned  
to the third parties and, therefore, the appellant is not entitled to any right. B

Having regard to the respective contentions, the question that arises  
for consideration is : whether the respondents were justified in law to take  
action against the appellants for their ejection? We are of the view that  
the Government was not justified in taking that action in view of the facts  
and circumstances of the case. Initially, the appellants had come into C  
possession by way of a lease granted to them. They remained in possession  
of land after the expiry of the lease but reclaimed the land and brought it  
under cultivation, obviously after incurring considerable expenses and  
labour. In *Murlidhar Dayandeo Kesekar v. Vishwanath Pandu Barde & Anr.*  
[1995] Supp. 2 SCC 549, the question arose : whether the alienation of the D  
lands assigned to the Scheduled Tribes was valid in law? In that context,  
considering the Preamble, the Directive Principles and the Fundamental  
Rights including the right to life assured by Article 21 of the Constitution,  
this Court had held that economic empowerment and social justice are E  
Fundamental Rights of the tribes. The basic aim of the welfare State is the  
attainment of substantial degree of social, economic and political equalities  
to achieve self-expression in his work as a citizen as also leisure and social  
justice. The distinguishing characteristic of the welfare State is the assump-  
tion by community, acting through the State and its responsibilities to  
provide the means and opportunities whereby all its members can reach  
minimum standard of economic security, social status, culture and health. F  
The welfare State, therefore, should take positive measures to assist the  
community at large to act in collective responsibility towards its members  
to assist them. It was, therefore, held thus :

"Article 21 of the Constitution assures right to life. To make right  
to life meaningful and effective, this Court put up expansive inter- G  
pretation and brought within its ambit right to education, health,  
speedy trial, equal wages for equal work is fundamental rights.  
Articles 14, 15 and 16 prohibit discrimination and accord equality.  
The Preamble to the Constitution as a socialist republic visualises  
to remove economic inequalities and to provide facilities and H

A opportunities for decent standard of living and to protect the economic interest of the weaker segments of the society, in particular, Scheduled Castes i.e. Dalits and the Scheduled Tribes i.e. Tribes and to protect them from "all forms of exploitations." Many a day have come and gone after 26.1.1950 but no leaf is turned in the lives of the poor and the gap between the rich and the poor is gradually widening on the brink of being unbridgeable.

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C Providing adequate means of livelihood for all the citizens and distribution of the material resources of the community for common welfare, enable the poor, the Dalits and Tribes, to fulfil the basic needs to bring about a fundamental change in the structure of the Indian society which was divided by erecting impregnable walls of separation between the people on grounds of caste, sub-caste, creed, religion, race, language and sex. Equality of opportunity and status thereby would become the bedrocks for social integration. Economic empowerment thereby is the foundation to make equality of status, dignity of person and equal opportunity a truism. The core of the commitment of the Constitution to the social revolution through rule of law lies in effectuation of the fundamental rights and directive principles as supplementary and complementary to each other. The Preamble, fundamental rights and directive principles - the trinity - are the conscience of the Constitution. Political democracy has to be stable. Socio-economic democracy must take strong roots and should become a way of life. The State, therefore, is enjoined to provide adequate means of livelihood to the poor, weaker sections of the society, the Dalits and Tribes and to distribute material resources of the community to them for common welfare etc."

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It was accordingly held that right to economic empowerment is a fundamental right. The alienation of assigned land without a permission of competent authority was held void.

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H In *R. Chandevappa and Ors. v. State of Karnataka and Ors.*, [1995] 6 SCC 309, this Court was to consider whether alienation of Government lands allotted to the Scheduled Castes was in violation of the Constitutional objectives under Articles 39(b) and 46. It was held that economic empowerment to the Dalits, Tribes and the poor as a part of distributive

justice is a fundamental right; assignment of the land to them under Article 39(b) was to provide socio-economic justice to the Scheduled Castes. The alienation of the land, therefore, was held to be in violation of the Constitutional objectives. It was held thus :

"In fact, the cumulative effect of social and economic legislation is to specify the basic structure. Moreover, the social system shapes the wants and aspirations that its citizens come to have. It determines in part the sort of persons they want to be as well as the sort of persons they are. Thus an economic system is not only an institutional device for satisfying existing wants and needs but a way of creating and fashioning wants in the future. The economic empowerment, therefore, to the poor, dalits and tribes as an integral constitutional scheme of socio-economic democracy is a way of life of political democracy. Economic empowerment is, therefore, a basic human right and a fundamental right as part of right to live, equality and of status and dignity to the poor, weaker sections, dalits and tribes.

The prohibition from alienation is to effectuate the constitutional policy of economic empowerment under Articles 14, 21, 38, 39 and 46 read with the Preamble of the Constitution. Accordingly it was held that refusal to permit alienation is to effectuate the constitutional policy. The alienation was declared to be void under Sections 23 of the Contract Act being violative of the constitutional scheme of economic empowerment to accord equality of status, dignity of persons and economic empowerment."

It was further held that providing adequate means of livelihood for all the citizens and the distribution of the material resources of the community for common welfare, enable the poor, the Dalits and the Tribes, to fulfil the basic needs to bring about the fundamental change in the structure of the Indian society. Equality of opportunity and status would thereby become the bedrocks for social integration. Economic empowerment is, therefore, a basic human right and fundamental right as a part of right to life to make political democracy stable. Socio-economic democracy would then take strong roots and become a way of life. The State, therefore, is enjoined to provide adequate means of livelihood to the poor and weaker sections of the society, the Dalits and the Tribes and distribute material

- A resources of the community to them for common welfare. Justice is an attribute of human conduct and rule of law is indispensable foundation to establish socio-economic justice. The doctrine of political economy must include interpretation for the public good which is based on justice that would guide the people when questions of economic and social policy are under consideration.
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- It is now settled policy of the Government as enjoined under Article 46 of the Constitution and the Directive Principles, particularly Articles 38 and 39(b) and the Preamble of the Constitution that economic and social justice requires to be done to the weaker sections of the society, in particular to the Scheduled Castes and Scheduled Tribes and to prevent them from social injustice and prevention of all forms of exploitation. In the light of that constitutional objective of economic empowerment, the Government have rightly taken the policy to assign the lease to either to a Cooperative Society composed of the Scheduled Castes or individual members of the Scheduled Tribes members, as the case may be, in accordance with their policy then in vogue at the rate of Rs. 20 per acre or 90 times the land revenue, whichever is less. Under these circumstances, the appellants having been inducted into possession reclaimed the land and remained in possession after the expiry of the lease, the Government is required to regularize their possession and assign the lands in their possession in accordance with its policy. The appellants, therefore, are directed to make necessary application within four weeks from today to the competent authority and the authorities are directed to regularise their possession imposing necessary conditions for their continuance in possession and enjoyment of the same in the light of the constitutional objective of rendering them socio-economic justice, putting restrictions on sub-letting or selling; all the relevant conditions in that behalf may be imposed so that they remain in possession and enjoy the same to improve their social and economic status as enjoined under the Constitution. The authorities also are directed to dispose of the applications within a period of two months from the date of the receipt of the same. The appellants shall remain in possession until the regularisation is done and shall enjoy the lands without any sub-letting or alienation thereof.
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The appeals are accordingly disposed of. No costs. Contempt Petition is dismissed.