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RAMESHWAR AND ORS.

v.

JOT RAM & ORS.

September 18, 1975

[V. R. KRISHNA IYER AND S. MURTAZA FAZAL ALI, JJ.]

B *Punjab Security of Land Tenures Act,* 1953 (*Punjab Act X of* 1953), *Section* 2(2) *and sub-sections* (1) *and* (4) *of Section* 18—*Tenant of large landowner deemed owner on deposit of first instalment of purchase price—Death of landowner subsequent to deposit—Landowner's heirs becoming small landowners—Tenants if disentitled to purchase land.*

Section 18(1) of the Punjab Security of Land Tenures Act, 1953, lays down that, notwithstanding to the contrary contained in any law, usage or contract, a tenant of a land owner *other than a small land-owner* shall be entitled to C purchase from the land-owner the land so held by him in the case of a tenant falling within Cl. (i) or cl. (ii) at any time, and in the case of a tenant falling within Cl. (iii) within a period of one year from the date of commencement of this Act. Section 18(4)(a) provided that the tenant shall be competent to pay the purchase price either in a lump sum or in six-monthly instalments not exceeding ten in the manner prescribed. Clause (b) provided that, on the purchase price or the first instalment thereof, as the case may be, being deposited, the tenant shall be deemed to have become the owner of the land.

D Teja, the landlord was a large land-owner under whom there were three tenants. Each of them applied for purchase of ownership under section 18(1) of the Act. The Assistant Collector found them eligible, fixed the price and the instalments of payment, and they duly deposited the first instalment. After this Teja died. Before the Financial Commissioner, the appellants contended that on the death of Teja, they as the heirs of Teja, became entitled to shares and, in this process of fragmentation, they became small landowners within the meaning of section 2(2) of the Act and therefore the tenants will be dis-E entitled to purchase the land. Their plea was that an appeal is a continuation of the original proceeding and, therefore, if there is a change of circumstances in the landlord's ownership during the pendency of the appeal, resulting in his legal representatives becoming small landowners' the tenants will be disentitled to purchase the land. The appellants succeeded before the Financial Commissioner, but failed before the High Court. This appeal has been preferred on the basis of the special leave granted by this Court.

Dismissing the appeals,

F HELD : (i) It is absolutely plain that on the deposit of the first instalment of the purchase price, the tenant shall be deemed to have become the owner of the land. In the present case, all these happenings had resulted in the respondents becoming the owners. [849-H]

(ii) Where rights have already vested in a party, they cannot be nullified or negated by subsequent events save where there is a change in law and it is made applicable at any stage. [852-B]

G *P. Venkataswarlu* v. *Motor & General Traders* A.I.R. 1975 S.C. 1409, 1410, *Bhajan Lal* v. *State of Punjab* [1971] (1) S.C.C. 34, *Patterson* v. *State of Alabama* (1934) 294 U.S. 600, 607 *Lachmeshwar Prasad Shukul* v. *Keshwar Lal Chau-* (1934) 294 U.S. 600, 607 *Lachmeshwar Prasad Shukul* v. *Keshwar Lal Chaudhuri* and *Ramji Lal* v. *The State of Punjab*, I.L.R. [1966] Punj. 125 referred to.

The death of the large landowner occurred pending the appeal. The right H of the respondents is fixed under sub-sections (1) and (4) of S-18 of the Act and that cannot be uprooted by supervening circumstances. A plain reading of section 18 yields the only conclusion that the rights of parties are determined on the date they come to court. [853-D]

CIVIL APPELLATE JURISDICTION : Civil Appeals Nos. 817 to 819 of 1968 and 1456 to 1458 of 1969.

From the Judgment and order dated the 19th May, 1966 and appeals by Special Leave from the Judgment and Order dated the 7th November, 1968 of the Punjab & Haryana High Court in C.W. No. 2205, 2206 and 2215 of 1965 and in C. Revsn. Nos. 771 to 773 of 1967 respectively.

Rameshwar Dial and *A. D. Mathur* for the appellants (In all the appeals).

K. L. Gosain and *E. C. Aggarwala* for respdt. Nos. 1 (In C.A. Nos. 817/68, 1456-1457/69) respdt. Nos. 1 and 3 (in Cas. Nos. 818/68 and 1458/69) and respdt. No. 1 (In CA No. 819/68).

The Judgment of the Court was delivered by

KRISHNA IYER, J. These two batches of appeals stem from the same judgment but raise two different questions of law under the Punjab Security of Land Tenures Act, 1953 (Punjab Act X of 1953) (for short, the Act), the forensic focus being turned on two different facets of s. 18 of the Act. The first set of appeals relates to the right of the tenants to purchase the ownership of the common landlord, Teja, while the second set of appeals turns on the principles of compensation awardable to the landlord pursuant to the vesting of ownership in the tenant.

Teja, the landlord, was admittedly a large land-owner under whom there were three tenants. Each of them applied for purchase of ownership under s. 18(1) of the Act. The Assistant Collector, who is the primary authority, found them eligible, fixed the price and the instalments of payment, and they duly deposited the first instalment. The statutory consequence of such deposit was that title to the property vested in the tenants on that date. All these events took place in the early '60s. Had the scheme of agrarian reform in the Punjab been simple and had the virtue of early finality so necessary in such a measure been present, the law would have operated with speed and changed the rural landscape radically, instead of provoking a heavy run of never-ending litigation. Section 24 of the Act has had this unwitting effect. Too many tiers of quasi-judicial review, too long at each deck and in a system which is slow-moving, tempt disappointed parties to litigate to the disastrous end. Such a statutory creation, calculated to give ultimate justice, is like a Frankenstein's monster, the very prolonged over-judicialised litigative engine, bleeding justice to death. A legislature, with care and concern for the agrarian community should be vigilant enough to design a quick and competent legal engineering project—absent by contrast in most land-reform laws blessing the rural poor. And it is noteworthy that legal battles are fought largely before Collectors, Commissioners and Financial Commissioners and then the writ chapter begins. This litigation, it is worthy of note, began before the Collector in 1961/62. A fundamental assessment of the comparative economic and social costs of multi-decked determination procedure would have induced the legislature to reduce institutional levels of adjudication. This is by the way, although we strongly recommend that the legislatures do pay serious attention to producing an early termination to land-reform reordering by a mammoth and immediate decision-making instrumentality.

A *C.As* 817-819/68

Shortly put, and shorn of details, the simple contention of the appellants in these appeals is that although their prepositus Teja was a large landowner, on his death his heirs, the present appellants, became entitled to shares and, in this process of fragmentation, they became 'small landowners' within the meaning of s. 2(2) of the Act. This event occurred after the tenants had been found entitled to purchase from the landowner the lands held by them and after they had deposited the first instalment as set down in s. 18(4). The plea is that an appeal is a continuation of the original proceeding and, therefore, if there is a change of circumstances in the landlord's ownership during the pendency of the appeal, resulting in his legal representatives becoming 'small landowners', the tenants will be disentitled to purchase the land. Of course, a tenant of a 'small landowner' has no right to purchase the land. But, in the present case, the landowner admittedly was a large landowner at the time the tenants applied for purchase. Section 18(1) reads, dropping the irrelevant portions, thus :

> "18. Right of certain tenants to purchase land :—(1) Notwithstanding anything to the contrary contained in any law, usage or contract, a tenant of a land-owner *other than a small landowner*....
>
> (i) ....
>
> (ii) ....
>
> (iii) ....
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> shall be entitled to purchase from the land-owner the land so held by him ....in the case of a tenant falling within cl.(i) or cl.(ii) at any time, and in the case of a tenant falling within cl. (iii) within a period of one year from the date of commencement of this Act."

It is common case that the application has been made in time and that at the time such application was made, the tenants were competent to buy the land. Section 18(4) (a) and (b) may, at this stage, be read :

> "18(4) (a) The tenant shall be competent to pay the purchase price either in a lump sum or in six-monthly instalments not exceeding ten in the manner prescribed.
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> (b) On the purchase price or the first instalment thereof, as the case may be, being deposited, the tenant shall be deemed to have become the owner of the land, and the Assistant Collector shall, where the tenant is not already in possession and subject to the provisions of the Punjab Tenancy Act (XVI of 1887), put him in possesion thereof."

It is absolutely plain that on the deposit of the first instalment of the purchase price, the tenant shall be deemed to have become the owner of the land. In the present case, all these happenings had resulted in the respondents becoming the owners.

The death of the large landowner occurred pending the appeal. The argument of counsel for the appellant, which found favour with the Financial Commissioner, but failed before the High Court, is that an appeal being a re-hearing of the suit, relief must be given to the legal representatives of the original landowner who, by devolution, became small landholders. If this contention be sound, the tenants would have to be denied relief since they would be holding under small landowners.

The solitary point which thus falls for determination is as to whether the subsequent event of the landowner's death at the appellate stage unsettles the right acquired by the tenants or whether the tribunal must uphold rights which have crystallized as on the date the applications were made and, in any event, the deposits of the first instalment were made by each of the tenants. We see no difficulty in answering this question against the appellant, but, in view of the persistent submission based upon a few rulings of this Court, the Federal Court and the High Courts, made by counsel for the appellant, we may as well consider the question of law, adopting an interpretative attitude which will further and not frustrate the legislative will in case there are alternative choices for the Court. Of course, a construction which will promote predictability of results, maintenance of reasonable orderliness, simplification of the judicial task, advancement by the Court of the purpose of the legislation and the judicial preference for what it regards as the sounder rule of law as between competing ones, must find favour with us. A plain reading of s. 18, without reference to consideration of subsequent events at the appellate level, yields the easy and only conclusion that the rights of parties are determined on the date they come to Court and what is an insurmountable obstacle to any other construction is that once the deposit is made the title to the land vests in the tenant. Agrarian reform law affects a considerable number of people and to keep rights uncertain over a long stretch of time till appeals and reviews and revisions and other processes are exhausted, is to inject unpredictability of results, for it is quite on the cards that a landlord may die in the long course of litigation, or other events may happen at later stages beyond the trial Court. Can rights of parties fluctuate with such uncertain contingencies ? If so, stabilization of land-ownerships, so vital to the new pattern of agrarian relations, will be postponed for a long time. Is not the judicial task simplified by adopting the golden rule that the rights of parties must be determined when they seek justice and not when the last Court has had its last say, long years after the litigation was initiated ? A system of orderliness about rights in land will result from this approach. More than all, the sounder rule of law as between rival claims to consideration of, or indifference to, subsequent events is surely that which excludes the later event factually or legally. Such a reading of the statutory scheme rhymes well with rapid agrarian reform contemplated by the framers.

The philosophy of the approach which commends itself to us is that a litigant who seeks justice in a perfect legal system gets it when he asks for it. But because human institutions of legal justice function slowly, and in quest of perfection, appeals and reviews at higher levels are provided for, the end product comes considerably late. But these higher Courts pronounce upon the rights of parties as the facts stood when the

A first Court was first approached. The delay of years flows from the infirmity of the judicial institution and this protraction of the Court machinery shall prejudice no one. *Actus curiae neminem gravabit*(1). Precedential support invoked by the appellant's counsel also lets him down provided we scan the fact situation in each of those cases and the legal propositions therein laid down.

B The realism of our processual justice bends our jurisprudence to mould, negate or regulate reliefs in the light of exceptional developments having a material and equitable import, occurring during the pendency of the litigation so that the Court may not stultify itself by granting what has become meaningless or does not, by a myopic view, miss decisive alterations in fact-situations or legal positions and drive parties to fresh litigation whereas relief can be given right here. The broad principle, C so stated, strikes a chord of sympathy in a court of good conscience. But a seeming virtue may prove a treacherous vice unless judicial perspicacity, founded on well-grounded rules, studies the plan of the statute, its provisions regarding subsequent changes and the possible damage to the social programme of the measure if later events are allowed to unsettle speedy accomplishment of a re-structuring of the land system which is the soul of the whole enactment. No processual equity can be permit- D ted to sabotage a cherished reform, nor individual hardship thwart social justice. This wider perspective explains the rulings cited on both sides and the law of subsequent events on pending actions.

In *P. Venkateswarlu* v. *Motor & General Traders*(2) this Court dealt with the adjectival activism relating to post-institution circumstances. Two propositions were laid down. Firstly, it was held that 'it is basic E to our processual jurisprudence that the right to relief must be judged to exist as on the date a suitor institutes the legal proceeding'. This is an emphatic statement that the right of a party is determined by the facts as they exist *on the date the action is instituted.* Granting the presence of such facts, then he is entitled to its enforcement. Later developments cannot defeat his right because, as explained earlier, had the court found his facts to be true the day he sued he would have got his decree. The F Court's procedural delays cannot deprive him of legal justice or rights crystallised in the initial cause of action. This position finds support in *Bhajan Lal* v. *State of Punjab*(3).

The impact of subsequent happenings may now be spelt out. First, its bearing on the *right* of action, second, on the nature of the *relief* and third, on its impotence to create or destroy substantive rights. Where the G nature of the relief, as originally sought, has become obsolete or unserviceable or a new form of relief will be more efficacious on account of developments subsequent to the suit or even during the appellate stage, it is but fair that the relief is moulded, varied or re-shaped in the light of updated facts. *Patterson*(4) illustrates this position. It is important

(1) "An act of the court shall prejudice no one" —Lalin for lawyers—Sweet & Maxwell.

H (2) A. I. R. 1975 S. C. 1409, 1410.

(3) [1971] (1) S. C. C. 34.

(4) *Patterson* v. *State of Alabama* (1934) 294 U.S. 600, 607;

that the party claiming the relief or change of relief must have *the same right* from which either the first or the modified remedy may flow. Subsequent events in the course of the case cannot be constitutive of *substantive rights* enforceable in that very litigation except in a narrow category (later spelt out) but may influence the equitable jurisdiction to mould *reliefs*. Conversely, where rights have already vested in a party, they cannot be nullified or negated by subsequent events save where there is a change in the law and it is made applicable at any stage. *Lachmeshwar Prasad Shukul* v. *Keswar Lal Chaudhuri*(1) falls in this category. Courts of justice may, when the compelling equities of a case oblige them, shape *reliefs*—cannot rights—to make them justly relevant in the updated circumstances. Where the relief is discretionary, courts may exercise this jurisdiction to avoid injustice. Likewise, where the right to the remedy depends, under the statute itself, on the presence or absence of certain basic facts *at the time the relief is to be ultimately granted,* the Court, even in appeal, can take note of such supervening facts with fundamental impact. *Venkateswarlu* (supra), read in its statutory setting, falls in this category. Where a cause of action is deficient but later events have made up the deficiency, the Court may, in order to avoid multiplicity of litigation, permit amendment and continue the proceeding, provided no prejudice is caused to the other side. All these are done only in exceptional situations and just cannot be done if the statute, on which the legal proceeding is based, inhibits, by its scheme or otherwise, such change in cause of action or relief. The primary concern of the court is to implement the justice of the legislation. Rights vested by virtue of a statute cannot be divested by this equitable doctrine (See *Chokalingam Chetty* : 54 Mad.L.J. 88 P.C.). The law stated in *Ramji Lal* v. *The State of Punjab*(2) is sound :

> "Courts do very often take notice of events that happen subsequent to the filing of suits and at times even those that have occurred during the appellate stage and permit pleadings to be amended for including a prayer for relief on the basis of such events but this is ordinarily done to avoid multiplicity of proceedings or when the original relief claimed has, by reason of change in the circumstances, become inappropriate and not when the plaintiff's suit would be wholly displaced by the proposed amendment (see *Steward* v. *The North Metropolitan Tramways Company* (1885) 16 Q.B.D. 178) and a fresh suit by him would be so barred by limitation."

One may as well add that while taking cautious judicial cognisance of 'post-natal' events, even for the limited and exceptional purposes explained earlier, no court will countenance a party altering, by his own manipulation, a change in situation and plead for relief on the altered basis.

The apparently divergent strains of the several decisions has persuaded us to dilate on this branch of processual jurisprudence. Let us now apply the law to the circumstances here. The legislation we are interpreting relates to agrarian reform, regarded as the vital base to build a

(1) [1940] F. C. R. 84=A.I.R. 1941 FC 5.

(2) I. L. R. [1966] Punj. 125.

A new social order. The Constitution has stressed not merely the supreme significance of this rural transformation but the fleet-footed implementation thereof, even going to the extreme extent of walling off litigative assaults on constitutionality by creation of the Ninth Schedule and the like. Moreover, the Act itself takes care to prevent future accumulation B of lands or motivated slimming process by transfers, interfering with the scheme of surplus pool and settlement of ejected tenants and the like. Peasant proprietorship is a cherished goal of the statute and so it provides that even on the payment of the *first instalment* of the price the tenant gets the title of the landlord. To hold that, if the landlord dies at some distant date after the title has vested in the tenant, the statutory C process would be reversed if by such death, his many children, on division, will be converted into small landholders, is to upset the day of reckoning visualized by the Act and to make the vesting provision 'a teasing illusion', a formal festschrift to agrarian reform, not a flaming programme of 'now and here'. These surrounding facts drive home the need not to allow futurism, in a dawdling litigative scene, to foul the D quick legislative goals.

Moreover, the *right* of the respondents is fixed under s. 18(1) and (4) and that cannot be uprooted by supervening circumstances. We are not called upon to mould the *relief* but to reject the *right*. We are not asked to avoid multiplicity of suits but to non-suit and thus stultify the E agrarian law. We are not required to permit the appellate authority to re-assess the facts as they stood when the action was brought (that is part of appellate power) but to project the landholder's subsequent death backwards to refuse a right already acquired. A flash-back camera, in this context, frustrates forensic objectives. Individual misfortune may be real but larger social changes will claim martyrs in law F and in fact. How can we miss the sublime impact of the Passion of Christ for the Redemption of Mankind ? The great fact is that, if uniformly, relentlessly and swiftly enforced, neither landlord nor tenant can keep more than the 'permissible area'. That is the equity and equality of this agrarian law.

G We see no merit in the appeals and dismiss them, leaving parties to bear their respective costs throughout.

C.As. 1456-1458/69

These appeals raise an interesting question of law bearing on compensation payable to landholders whose lands are vested in tenants and this H turns on the connotation of 'similar land' in s. 18(2) of the Act in the context of averaging the price for ten years before the filing of the application for purchase. The primary fact which projects this point

of law is as to whether the purchased land is irrigated or non-irrigated for purposes of valuation. We are relieved from the need to investigate the implications of the issue because the factual foundation about the nature of the land in question was never put in issue nor considered in the High Court. Thus the appellants have missed the bus and we cannot hear them on a question raised *de novo* and demanding enquiry into facts not raised at the next-below level.

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We dismiss these appeals, without costs.

V.M.K. *Appeals dismissed.*