A

STATE OF HARYANA AND ANR.

v.

JIWAN SINGH

October 8, 1975

[V. R. KRISHNA IYER AND A. C. GUPTA, JJ.]

B

Punjab Security of Land Tenures Act, 1953—Proviso (ii)(a) to Section 2(3) —Maximum permissible area for a displaced person in terms of Standard Acres or ordinary acres, determination of—Meaning of the phrase "as the case may be".

The respondent, a displaced person from Pakistan was allotted 55-80 Standard Acres of land in lieu of the land left by him in Pakistan. While determining the surplus area, the appellant State inte.preting the phrase "as the case may be" in proviso (ii)(a) to Section 2(3) of the Punjab Security of Land Tenures Act, 1953, left with the respondent 100 ordinary acres equivalent to 29.81 Standard Acres and treated 25.99 standard acres equivalent to 78.57 ordinary acres as surplus. The respondent preferred an appeal contending that the surplus should be 5.80 standard acres on a true interpretation of the proviso, which failed. The revision before the Financial Commissioner met with the same fate. The contention of the respondent was upheld by the High Court, while allowing the Writ Petition filed by him. The Letters Patent Appeal filed by the State was dismissed. On an appeal by special leave, the Court, while dismissing it,

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HELD : (i) The contention that the words "as the case may be" in proviso (ii)(a) to section 2(3), gives a discretion to the authorities to determine the permissible area either in standard or in ordinary acres is not correct. [212-B-C]

(ii) On a plain reading, proviso (ii)(a) indicates that where the land allotted to a displaced person was in standard acres and its area exceeded 50 standard acres, the permissible area would be 50 standard acres, and where the land was allotted not in standard acres, the permissible area would be 100 ordinary acres. The nature of the original allotment—whether it was in standard acres or in ordinary acres—is the determinating factor. [212-C-D]

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(iii) The meaning given to proviso (ii)(a) by the Full Bench of the Punjab & Haryana High Court, in *Khan Chand* v. *State of Punjab* A.I.R. 1966 Punjab 423, is correct. It is only construed this way that the words "as the case may be" acquire a significance, otherwise they would be mere surplusage. [212-D-E,]

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Khan Chand v. *State of Punjab,* A.I.R. 1966 Punjab 423, approved.

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 852 of 1968.

Appeal by Special Leave from the Judgment and Order dated the 9th August, 1967 of the Punjab & Haryana High Court in L.P. A. No. 199/67.

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Naunit Lal and *R. N. Sachthey* for the Appellants.

Madan Bhatia for Respondent.

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The Judgment of the Court was delivered by

GUPTA, J. The respondent Jiwan Singh who is a displaced person from Pakistan was allotted 55.80 standard acres of land in village Neza Dali Kalan in Sirsa Tehsil of Hissar District in lieu of the land left by

him in Pakistan. The second appellant, Collector Surplus Area, Sirsa, in determining the surplus area under the Punjab Security of Land Tenures Act, 1953 (hereinafter referred to as the Act) left only 100 ordinary acres with the respondent as his permissible area and declared the rest of the land measuring 78.57 ordinary acres, equivalent to 25.99 standard acres, as surplus. Permissible Area as defined in sec. 2(3) of the Act is as follows :

> " "Permissible area" in relation to a land owner 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—
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> (i) no area under an orchard at the commencement of this Act, shall be taken into account in computing the permissible area :
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> (ii) for a displaced person—
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> (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.
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> (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.
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> (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."

There is an explanation to this definition which is not relevant for the present purpose. Surplus Area would be the area in excess of the permissible area. According to the respondent the surplus area in his case cannot exceed 5.80 standard acres in view of the proviso (ii)(a) to sec. 2(3), and being aggrieved by the order of the Collector preferred an appeal to the Commissioner. The Commissioner remanded the case to the Collector for a fresh determination of the respondent's surplus area observing that in the case of a displaced person if the allotment was in standard acres, 50 standard acres would be the permissible area and if the allotment was in ordinary acres the permissible area would be 100 ordinary acres. On remand the Collector upheld his own previous order and the appeal taken by the respondent from this order was dismissed by the Commissioner. The respondent filed a revision petition before the Financial Commissioner, Punjab, who also upheld the order of the Collector and dismissed the petition. The respondent thereafter filed a writ petition in Punjab and Haryana High Court which was allowed. The learned Judge who heard the writ petition held following a full Bench decision of the same High Court, *Khan Chand* v. *State of Punjab*,(1) that it was "not legitimate for the authority to treat as surplus

(1) A. I. R. 1966 Punjab 423.

A area anything more than 5.80 standard acres of the petitioner's land". The Letters Patent appeal preferred against the decision of the learned single Judge by the State of Haryana and the Collector Surplus Area, Sirsa, was dismissed. The correctness of the High Court's decision is challenged before us in this appeal by special leave.

B The case turns on the true meaning of proviso (ii) (a) to sec. 2(3). Counsel for the appellants submits that this provision means that the permissible area in the case of displaced persons who were allotted land in excess of 50 standard acres can be determined either in terms of standard acres or in terms of ordinary acres, as the authority concerned chooses. Counsel contends that the words "as the case may be" refer to the discretion of the authority in this matter. We do not find it possi-
C ble to accept this contention. There is no specific provision in the Act giving a discretion to the Collector or any other authority under the Act to determine the permissible area for a displaced person either in standard acres or in ordinary acres. On a plain reading proviso (ii) (a) seems to indicate that where the land allotted to a displaced person was in standard acres and its area exceeded 50 standard acres, the permissible area would be 50 standard acres, and where the land was allotted
D not in standard acres the permissible area would be 100 ordinary acres. The nature of the original allotment—whether it was in standard acres or in ordinary acres—seems to be the determining factor. The Full Bench decision of the Punjab and Haryana High Court, *Khan Chand* v. *State of Punjab* (supra), on which the Judgment under appeal relies, reads proviso (ii) (a) to mean :

> E "For a displaced person who has been allotted land in excess of 50 standard acres or in excess of 100 ordinary acres the permissible area shall be 50 standard acres or 100 ordinary acres, as the case may be."

We agree that this is the correct meaning to be given to this provision; it is only construed this way that the words "as the case may be" ac-
F quire a significance, otherwise they would be mere surplusage. Clauses (b) and (c) of proviso (ii) lend assurance to this construction. Clause (b) deals with the case of a displaced person who has been allotted land in excess of thirty standard acres but less than fifty standard acres and provides that the permissible and in his case shall be equal to his allotted area. Clause (c) fixes the permissible area for a displaced person who has been allotted land less than thirty standard acres providing
G that it shall be thirty standard acres including any other land or part thereof, if any, that he owns in addition. Clauses (b) and (c) both deal with cases where the original allotment was in standard acres, and there is nothing in either of them sanctioning the conversion of the permissible area in standard acres into ordinary acres, though perhaps any other land which a displaced person whose case is covered by clause (c) might own in addition to the 30 standard acres allotted to him may be in ordinary acres requiring conversion of such land into
H standard acres to determine the permissible area in standard acres in his case as provided in clause (c). But this does not mean that the permissible area in cases covered by clauses (b) and (c) can also be fixed

in ordinary acres. Proviso (ii) to sec. 2(3) appears to group displaced persons into two categories, those who were allotted land in standard acres and those whose allotment was in ordinary acres. Clause (a) deals with both these categories and limits the permissible area of those who were allotted land in standard acres at 50 standard acres and those who were allotted land in ordinary acres at 100 ordinary acres; clauses (b) and (c) deal only with those who were allotted land in standard acres. Those whose allotment was in ordinary acres, their permissible area is fixed at 100 such acres, but those who were allotted land in standard acres, in their case the permissible area varies as provided in clauses (a), (b) and (c) though the measure in each case would be in standard acres. This appears to be the scheme. In defining "Permissible area" sec. 2(3) of the Act provides differently for land owners and tenants covered by the substantive part of the definition, and displaced persons mentioned in proviso (ii), and also makes a distinction between displaced persons *inter se* as provided in the different clauses of the proviso. In the course of argument questions were raised about the logical basis for such differentiation, but the policy of the Act being clear we have to interpret the provision as we find it; if there is any anomaly in the policy itself, it is for the legislature to remove that defect. In this case the land allotted to the respondent being admittedly 55.80 standard acres, the permissible area for him would be 50 standard acres under clause (a) and that being so, the High Court was right in holding that it was not legitimate for the authority to treat as surplus area anything more than 5.80 standard acres.

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The appeal is accordingly dismissed but in the circumstances of the case without any order as to costs.

S.R. *Appeal dismissed.*