SUPREME COURT OF INDIA

Before: Justice V.R. Krishnaiyer And Justice Syed Murtaza Fazalali.

Rameshwar And Others

v.

Jot Ram And Another

Civil Appeal 817 to 819 of 1968

18.09.1975

"it is basic 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 Court's procedural delays cannot deprive him of legal justice or right crystallised in the initial cause of action. This position finds support in **Bhajan Lal v. State of Punjab 1971 1 SCC 34.**

9. 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 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 reshaped in the light of updated facts. Patterson4 illustrates this position. It is important 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.

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 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.

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V.R 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 10 of 1953) (for short "the Act"), the forensic focus being turned on two different facets of Section 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.

2. Teja, the landlord, was admittedly a large landowner under whom there were three tenants. Each of them applied for purchase of ownership under Section 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.

CAs Nos. 817-819 of 1968

3. Shortly put, and shorn of details, the simple contention of the appellants in these appeals is that although their propositus 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 Section 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 Section

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 landowner other than a small landowner . ..

(i) * * *

(ii) * * *

(iii) * * *

shall be entitled to purchase from the landowner the land so held by him .. in the case of a tenant falling within clause (i) or clause (ii) at any time, and in the case of a tenant falling within clause (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.

(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 (16 of 1887),*** *put him in possession 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.

4. 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 rehearing 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.

5. 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 was 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 Section 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.

6. 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 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 gravabit1. 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.

7. 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, 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 restructuring of the land system which is the soul of the whole enactment. No processual equity can be permitted 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.

8. In Pasupuleti Venkateswarlu v. Motor & General Traders . – 1975 PLRonline 0002 this Court dealt with the adjectival activism relating to post-institution circumstances. Two propositions were laid down. Firstly, it was held that [**SCC p. 772**, para 4]

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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). The law stated in **Ramji Lal v. State of Punjab** AIR 1966 Punj 374 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. North Metropolitan Tramways Company 1885 16 QBD 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.

10. 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 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 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 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 visualised 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 quick legislative goals.

11. Moreover, the right of the respondents is fixed under Section 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 agrarian law. We are not required to permit the appellate authority to reassess 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 flashback camera, in this context, frustrates forensic objectives. Individual misfortune may be real but larger social changes will claim martyrs in law 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.

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

CAs Nos. 1456-1458 of 1969

13. These appeals raise an interesting question of law bearing on compensation payable to landholders whose lands are vested in tenants and this turns on the connotation of “similar land” in Section 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.

14. We dismiss these appeals, without costs.

Equivalent:

1976 AIR 49

1976 SCR (1)847

1976 SCC (1)194