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Kaushalya Devi and others V. Bachittar Singh and others (2), this Court has ample jurisdiction to correct errors of the subordinate tribunals, and the Calcutta High Court in *Shib Prosad Mondal* V. *The State of West Bengal and others* (3), did correct a similar legal error.

The last contention is that the tribunal has not determined whether the institution falls under clause (iii) or clause (v) of the Explanation and therefore, till that matter is determined no relief can be granted to the petitioner. That appears to be so but then this Court can issue directions to the tribunal concerned to determine that matter. I, therefore, allow this petition and quash the order of the Financial Commissioner and the authorities subordinate to him and direct the authorities concerned to determine under what category of the Explanation the petitioner's institution falls and thereafter decide the matter in accordance with law. There will be no order as to costs.

B.R.T.

CIVIL MISCELLANEOUS

Before Tek Chand and Inder Dev Dua, JJ.

ANGREJ SINGH,—*Petitioner*

versus

FINANCIAL COMMISSIONER, PUNJAB, AND OTHERS,—*Respondents.*

Civil Writ Application No. 1924 of 1960.

1962

April, 27th

Punjab Security of Land Tenures Act (X of 1953)—Sections 2(4), 5-A, 5-B and 9(1)(i)—Tenant on the area reserved under the Act—Whether can be ejected—Reserved area—meaning of—Whether means area reserved under section 5 only or includes area selected under sections 5-A and 5-B as well—Words and Phrases—'Reserve' and 'Select'—meaning of—'Reserved area',

(2) A.I.R. 1960 S.C. 1168.
(3) 68 Cal. W.N. 88.

'selected area', 'permissible area' and 'Surplus area'—Meaning and features of, in the context of the Act—Interpretation of Statutes impinging upon the rights relating to person or property—Manner of.

Held, that according to the intention of the Punjab Security of Land Tenures Act, 1953, as amended from time to time, the eviction of the tenant from the permissible area, after it had been reserved under section 5, or selected under section 5-B, was contemplated with a view to allow the landowner to use such area for self-cultivation. The argument on the basis of hardship to the tenant on account of his ejectment is pointless, not only because of the clear purpose of the Act, but also because it was expressly provided by section 9-A that no tenant under section 9(1) would be dispossessed of his tenancy unless he was accommodated on a surplus area in accordance with the provisions of section 10-A or otherwise, on some other land by the State Government. It thus became incumbent upon the State Government to provide land to a tenant, who had been evicted by reason of the area having been 'selected' or 'reserved' by the landowner within the permissible limit, for self-cultivation.

Held, that the object of reserving "selected area" up to the permissible area is, that the landowner may be able to retain it and be able to exercise the rights of an owner such as *jus utendi*—right to use—,*jus fruendi*—right to its produce or to the fruit—, and *jus possidendi*—right to retain possession. These rights the landowner cannot exercise in the case of "surplus area". If "selected area" is, in a class, different from the "reserved area", the landowner is liable to lose it under section 18. The landowner can either have a "reserved area" which is possible only if he has exercised his choice within the first six months of the coming into force of the 1953 Act, or, can select his area exercising his choice within six months of the commencement of the amending Act, 1955. In neither case can he possess land in excess of the "permissible area". If the area selected up to the permissible limit could have the same incidence as surplus area, and it could be liable to compulsory purchase by a tenant, there would be no security left for the landowner of the selected area so far as self-cultivation is concerned. In other words, his entire land, including the "selected area", would be liable to involuntary sale under section 18. This would be highly

inequitable and contrary to the intention and scheme of the Act. 'Selection' under section 5-B, if it is without the advantages of 'reservation' in the sense of section 5, would confer no advantage whatsoever on the landowner, and expose him to the provisions of section 18 and thus, despite selection, the area selected by him would in no way be different from the "surplus area".

Held, that the ordinary meaning of the words "to reserve" and "to select" are not dissimilar or inconsistent, from the point of the purpose of this Act. A person is said to reserve a thing when he sets it apart or sets it aside. "Reserve" means to keep, to hold, or to retain. A thing is reserved when it is segregated from the rest, or excepted. The expression "select", implies the exercise of option, or choice. One selects when he picks out or chooses something. A person selects, when he chooses one out of more than one things. "Selection" means taking by preference one thing rather than another. Thus, "selection" and "reservation" in the context of this enactment mean the same thing. Both "reservation" and "selection" are the result of discriminated choice and imply preference or option. Apart from what has been said above, "selection" or "reservation" of "permissible area" imply one and the same thing. The common feature of the "reserved area" and "selected area" is that they have to be carved out of the "permissible area". Whether the area is reserved or selected, it forms a part and parcel of the 'permissible area', out of which alone 'reservation' or 'selection' by the landowner can be made. The scheme of the Act becomes consistent and intelligible once "reserved area" is to be construed interchangeably with the "selected area" having identical characteristics, both in respect of the rights and obligations of the landowners. It is evident that the intention of the Legislature is to create only two classes of lands, that is, the "permissible area" and the "surplus area". There is no third class of land called the "selected area" in contradistinction to the other two. The Legislature did not intend to create a third kind of ownership or tenure, viz., the landowner of selected area or the tenants in occupation of such an area. Section 2, subsection (5-a), which defines "surplus area" excludes the "reserved area" so-called and the area selected by the landowner under section 5-B. In other words, "surplus area" means the area other than the area which has been reserved or selected, and the latter possess the same

qualities and characteristics which distinguish them from the "surplus area". A landowner who has made his selection of "permissible area" under section 5-B of the Act, is competent to eject a tenant from that area under section 9(1)(i) of the Act.

Held, that the statutes which impinge upon the rights whether as regards person or property, are subjected to strict construction. Equivocal words or ambiguous sentences creating reasonable doubt as to their meaning have to be interpreted in a manner so as to give the benefit of doubt to the subject whose rights are being encroached upon. The interpretation of a disabling section has to be in a manner so as to respect such rights. Unless the objects of the Act clearly so provide, an intention to confiscate the property of the subject cannot be imputed to the Legislature. If the language is not plain, the confiscatory or the expropriatary intent must be clearly implied and beyond reasonable doubt. Another important rule of interpretation is, that a statute must be construed so that the intention of the Legislature may not be treated as vain. Where the words used are plain and unambiguous, the Courts are bound to construe them in their ordinary sense regardless of the consequences; and no considerations of hardship or injustice would justify not giving to the language of the statute its plain meaning. But where the words admit of two or more interpretations, the Courts adopt the construction which is reasonable, just and sensible. In case of doubt or ambiguity, the Courts may adopt a construction which may not even be strictly grammatical, or to give to the words either a liberal or a strict meaning in consonance with the rule of harmonious construction, and in accord with the intention of the Legislature as can be gathered from the purpose of the enactment and the words used therein. It is a well-known rule of beneficial construction that mischief be suppressed and remedy be advanced if such a construction can be put without straining the plain language.

Case referred by Hon'ble Mr. Justice I. D. Dua, on 19th September, 1961 to a larger Bench for decision owing to the importance of the question of law involved in the case. The case was finally decided by a Division Bench consisting of Hon'ble Mr. Justice Tek Chand and Hon'ble Mr. Justice Dua, on 27th April, 1962.

Petition under Articles 226 and 227 of the Constitution of India praying that a writ of certiorari *or any other suitable writ, direction or order be issued quashing the orders of respondents Nos. 1 and 2, dated 20th October, 1960 and 19th October, 1959, respectively.*

H. S. WASU AND B. S. WASU, ADVOCATES, for the Petitioner.

H. S. DOABIA, ADDITIONAL ADVOCATE GENERAL AND M. K. MAHAJAN, ADVOCATE, for the Respondents.

ORDER

Tek Chand, J. TEK CHAND, J.—This Civil Writ petition has come up before this Bench on a reference by my learned brother I. D. Dua, J. Originally, the case was argued before him on 19th September, 1961, and as he considered the matter involved to be of considerable importance and likely to arise in a number of cases, he expressed the view that the question arising in the dispute may be authoritatively disposed of by a larger Bench. Notice of the petition has also been given to the Advocate General.

The facts giving rise to this petition are that Angrej Singh, petitioner, had been a tenant under his landlord Karam Singh, respondent No. 3. An application was made by the landlord for the ejectment of the tenant under section 9(1)(i) of the Punjab Security of Land Tenures Act (10 of 1953). This application was rejected by the Assistant Collector on 2nd July, 1959. The landlord preferred an appeal to the Collector which was allowed on 19th October, 1959. The tenant took up the matter in appeal before the Commissioner, who allowed it. From the appellate order of the Commissioner, the landlord filed a revision to the Financial Commissioner and there he was successful. The order of the Financial Commissioner dated 20th October, 1960 (Annexure 'D') has been questioned before us by means of the petition of writ on behalf of the tenant, who has prayed for the issuance of a writ of *certiorari* and desires this Court to quash the

impugned orders of the Financial Commissioner and also of the Collector; both of them have been impleaded as respondents Nos. 1 and 2.

The main question calling for decision is whether under the provisions of section 9(1)(i) the tenant-petitioner is liable to be ejected being "a tenant on the area reserved under this Act."

A reference to the salient provisions of the Punjab Security of Land Tenures Act, 1953, which came into force on 15th April, 1953, will help in understanding the question which calls for decision in this case. This Act was amended first in 1953 by Punjab Act 57 of 1953, and then by Punjab Act 11 of 1955, Punjab Act 46 of 1957, Punjab Act 4 of 1959, and finally by Punjab Act 32 of 1959. The Act was passed to provide for the security of land tenures and other incidental matters and was preceded by two earlier Acts, Punjab Tenants (Security of Tenure) Act (12 of 1950)and Punjab Tenants (Security of Tenure) Amendment) Act, 1951 (President's Act 5 of 1951). These two enactments have been repealed by section 28 of the principal Act. This Act saves the tenants from ejectment on arbitrary grounds and also protects their interests, but at the same time it imposes an obligation upon the tenants to pay rent regularly to the landlord. This Act prevents the landlord from realising rent at a higher rate than what is fixed by the Legislature. The Legislature has put limits on the maximum area which a landowner can hold for himself which is 30 standard acres except in the case of displaced persons who can hold up to 50 standard acres. To the extent of the 'permissible area' which a landowner can hold for himself, the Legislature has enabled him to obtain exclusive possession by eviction of the tenants in respect of such an area. The evicted tenants are also accommodated in the surplus areas and a statutory obligation has been cast upon the State to accommodate tenants who have been displaced as a result of the landowner personally cultivating the area which the Legislature has allowed him to hold for himself. There are certain other features of this Act which are not

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germane to the particular question arising in this case. Section 2, sub-section (3), defines "permissible area" which, in relation to a landowner or a tenant, means 30 standard acres not exceeding 60. There is a proviso that no area under an orchard at the commencement of this Act shall be taken into account in computing the permissible area. The maximum limit in the case of displaced persons is 50 standard acres or 100 ordinary acres. Section 2, sub-section 4, defines "reserved area" as meaning "the area lawfully reserved under the Punjab Tenants (Security of Tenures) Act, 1950 (Act 22 of 1950), as amended by President's Act of 1951)."

"Surplus area" is defined by section 2(5a) as under—

> "'Surplus area' means the area other than the reserved area, and, where no area has been reserved, the area in excess of the permissible area selected under section 5-B or the area which is deemed to be surplus area under sub-section (1) of section 5-C, but it will not include a tenant's permissible area:
>
> Provided that it will include the reserved area, or part thereof where such area or part has not been brought under self-cultivation within six months of reserving the same or getting possession thereof after ejecting a tenant from it, whichever is later, or if the land-owner admits a new tenant, within three years of the expiry of the said six months." (This is a new sub-section added by Punjab Act 11 of 1955).

Section 2(9) as substituted by Punjab Act 11 of 1955 defines "self-cultivation."

> 'Self-cultivation' means cultivation by a land-owner either personally or through his wife or children, or through such of his relations as may be prescribed, or under his supervision."

It may be mentioned here that this Act does not apply to co-operative garden colonies which were registered before the coming into force of this Act.

Section 5 lays down the procedure for reservation of land by the landowner, who owns land in excess of the permissible area. He may reserve any parcel or parcels of his land by intimating his selection in the prescribed form and manner to the Patwari of the estate. This reservation is, however, subject to the following proviso—

> "Provided that in making this reservation, he shall include his areas owned in the following order—
>
> (a) area held in a Co-operative Garden Colony;
>
> (b) area under self-cultivation at the commencement of this Act other than the reserved area;
>
> (c) reserved area excluding the area under a jhundimar tenant or a tenant, who has been in continuous occupation for 20 years or more immediately before such reservation,
>
> (d) area or share in a Co-operative Farming Society;
>
> (e) any other area owned by him;
>
> (f) area under a jhundimar tenant."

Under sub-section (3) of section 5 a landowner is required to intimate a reservation within six months from the date of the commencement of this Act, that is, 15th April, 1963, and no reservation so intimated shall be varied subsequently, whether by act of parties or by operation of law, save with the consent in writing of a tenant affected by such variation or until such time as the right to eject such tenant otherwise accrues under the provisions of this Act. From the above, it

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follows that the landowner has a restricted choice in reserving for himself the parcels of his land as he has to adhere to the order laid down in the proviso to sub-section (1) of section 5. No reservation in contravention of the proviso shall be valid. Rules 3 to 6 of the Punjab Security of Land Tenures Rules lay down the procedure for reserving the land.

In 1957 the main Act underwent important amendments when Punjab Security of Land Tenures (Amendment) Act (46 of 1957) added sections 5-A, 5-B and 5-C. The first two new sections are reproduced below—

"5 A. Declarations supported by affidavits to be furnished by certain landowners and tenants: Every landowner or tenant, who owns or holds land in excess of the permissible area and where land is situated in more than one Patwar circle, shall furnish, within a period of six months from the commencement of the Punjab Security of Land Tenures (Amendment) Act, 1957, a declaration supported by an affidavit in respect of the lands owned or held by him in such form and manner and to such authority as may be prescribed.

5 B. Selection of permissible area and consequences of failure to select.

(1) A landowner, who has not exercised his right of reservation under this Act, may select his permissible area and intimate the selection to the prescribed authority within the period specified in sections 5-A and in such form and manner as may be prescribed:

Provided that a landowner, who is required to furnish a declaration under section 5-A shall intimate his selection along with that declaration.

(2) If a landowner fails to select his permissible area in accordance with the provisions of sub-section (1), the prescribed authority may, subject to the provisions of section 5-C, select the parcel or parcels of land which such person is entitled to retain under the provisions of this Act:

Provided that the prescribed authority shall not make the selection without giving the landowner concerned an opportunity of being heard.

Section 5-C provides penalty for failure to furnish declaration. In this case we are not concerned with this provision. Section 9, sub-section (1) is reproduced *in extenso*—

"9. Liability of tenant to be ejected.

(1) Notwithstanding anything contained in any other law for the time being in force, no landowner shall be competent to eject a tenant except when such tenant—

(i) is a tenant on the area reserved under this Act or is a tenant of a small landowner; or

(ii) fails to pay rent regularly without sufficient cause; or

(iii) is in arrears of rent at the commencement of this Act; or

(iv) has failed, or fails, without sufficient cause, to cultivate the land comprised in his tenancy in the manner or to the extent customary in the locality in which the land is situate; or

(v) has used, or uses the land comprised in his tenancy in a manner which has rendered, or renders it unfit for the purpose for which he holds it; or

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(vi) has sublet the tenancy or a part thereof; provided that where only a part of the tenancy has been sublet, the tenant shall be liable to be ejected only from such part; or

(vii) refuses to execute a Qabuliyat or a Patta, in the form prescribed, in respect of his tenancy on being called upon to do so by an Asistant Collector on an application made to him for this purpose by the landowner;

Explanation: For the purposes of clause (iii), a tenant shall be deemed to be in arrears of rent at the commencement of this Act, only if the payment of arrears is not made by the tenant within a period of two months from the date of notice of the execution of decree or order, directing him to pay such arrears of rent."

This section has introduced important changes and the conditions under which a tenant could be ejected, as provided in the Punjab Tenancy Act, have been superseded. A tenant is not liable to be ejected except for reasons specified above. No reason need be assigned for ejecting a tenant on the area reserved under this Act or where such a person is a tenant of a "small landowner" which means a landowner whose entire land in Punjab does not exceed the "permissible area." So far as other tenants are concerned, they can be ejected on proof of breaches mentioned in section (ii) to (vii). The statutory rules lay down the procedure and the time when the tenant can be ejected.

Section 9-A which was added by Punjab Security of Land Tenures (Amendment) Act (11 of 1955) gives certain security to the tenant who is ejected. This section reads as under :—

"9A. No tenant liable to ejectment under clause (i) of sub-section (1) of the section next preceding shall be dispossessed of his tenancy unless he is accommodated

on a surplus area in accordance with the provisions of section 10-A or otherwise on some other land by the State Government:

"Provided that if the tenant concerned is the tenant of a small landowner, he shall be allowed to retain possession of his tenancy to the extent of five standard acres including any other land which he may hold as tenant or owner, until he is so accommodated on a surplus area or otherwise:

Provided further, that if a tenancy commences after the commencement of this Act and the tenant is also an owner and is related to his landlord in the manner prescribed he shall not be entitled to the benefit of this section."

The object of section 9-A is that the tenant on ejectment should not be left destitute, and section 10-A empowers the utilisation of any surplus area in the resettlement of tenants ejected or liable to be ejected under sction 9(1) (i). Section 17 enables certain tenants to obtain the land by filing a suit for possession by way of pre-emption if the landowner sells the land comprised in the tenancy to some other person; but this right of pre-emption is not in respect of the land which is included in the reserved area [*vide* section 18 (1)].

I may now advert to the respective contentions which have been canvassed before us.

On behalf of the petitioner, the argument is that the right of the landowner under section 9(1) (i) to eject a tenant when such a tenant "is the tenant on the area reserved under this Act," is confined to "reserved area" as defined in section 2(4) and does not include the permissible area which has been selected under section 5-B. In other words, the landowner who omitted to reserve any parcel of land under section 5 within six months from the date of the commencement

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of the Act, but had duly selected his permissible area in accordance with sections 5-A and 5-B, cannot get the area so selected, vacated by the tenant. Whether the area is reserved under section 5 or selected under section 5-B, the "reservation" or the "selection" has to be from the "permissible area" and not from the "surplus area". This argument introduces an incongruity which is not easy to reconcile. According to the declared policy of the Act, a landowner is free to utilise the "permissible area" reserved by him as he may please and put the land under self-cultivation by ejectment of the tenants. This right is confined to "permissible area" and cannot be exercised over the "surplus area". The maximum limit of this area is fixed at 30 standard acres except in the case of displaced persons, where the limit is raised. The time for intimation of reservation of land was fixed at six months from the date of the commencement of this Act, which means, that after 15th October, 1953, no reservation could be made by the landowner. The necessity for adding sections 5-A and 5-B by Punjab Act 46 of 1957, arose, because owing to paucity of time or, for want of knowledge, the landowners had not been able to make reservation of their "permissible area". In the first instance the original Act had provided a period of two months for furnishing declarations in the prescribed form, which later on, was extended to six months. The response was poor. By the Punjab Security of Land Tenures (Amendment) Act (46 of 1957) the Legislature called upon those landowners who owned land in excess of the permissible area to file their declarations within six months and provided a penalty for those who defaulted or made false declarations. An opportunity was also given to a landowner owning land in excess of the permissible area, who may not have exercised the right of reservation under the 1953 Act, to exercise the right to select his permissible area.

The distinction between the "reserved area" and "selected area" is that the former term implies reservation of permissible area made within six

months of the commencement of the principal Act, that is, up to 15th October, 1953. The term "selected area" refers to selection of "permissible area" made within six months of the Amending Act (46 of 1957). The latter Act received the assent of the President, on 11th December, 1957, and was first published in the Official Gazette, on 20th December, 1957. The right to select his "permissible area" under section 5-B was to be exercised within a period of six months from the commencement of the Amending Act (46 of 1957). These two terms resemble in so far as the maximum quantity of area which could be reserved or selected was the same and the reservation or selection was to be made by the landowner out of his "permissible area", and the landowner who had reserved his "permissible area" under section 5 could not, under section 5-B, again select such area. Conversely, only that landowner could select an area who had failed to reserve his "permissible area." From the point of view of the landowner, the importance of the "permissible area" lies in the fact that he can subject it to self-cultivation and enjoy it absolutely without the intervention of a tenant. This right is denied to the landowner in his "surplus area". It could not have been the intention of the Legislature not to allow the exercise of the right of self-cultivation in "permissible area" to the landowner who had made his selection in accordance with sections 5-A and 5-B.

It is then said that the expression "reserved area" in section 2(4) is a term of art and is to be given strict and technical meaning. It was argued that the definition of the term could not be enlarged even if this leads to absolutely illogical consequences and even causes hardship not contemplated by the framers of the Act. This argument is opposed to the rule of harmonious construction in accordance with the known intention of the legislature. The ordinary meaning of the words "to reserve" and "to select" are not dissimilar or inconsistent, from the point of the purpose of this Act. A person is said to reserve a thing when he sets it apart or sets it aside.

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"Reserve" means to keep, to hold, or to retain. A thing is reserved when it is segregated from the rest, or excepted. The expression "select", implies the exercise of option, or choice. One selects when he picks out or chooses something. A person selects, when he chooses one out of more than one things. "Selection" means taking by preference one thing rather than another. Thus "selection" and "reservation" in the context of this enactment mean the same thing. Both "reservation" and "selection" are the result of discriminated choice and imply preference or option. Apart from what has been said above, "selection" or "reservation" of "permissible area" imply one and the same thing. The common feature of the "reserved area" and "selected area" is that they have to be carved out of the "permissible area." Whether the area is reserved or selected, it forms a part and parcel of the "permissible area," out of which alone "reservation" or "selection" by the landowner can be made. The scheme of the Act becomes consistent and intelligible once "reserved area" is to be construed interchangeably with the "selected area" having identical characteristics, both in respect of the rights and obligations of the landowners. It is evident that the intention of the Legislature is to create only two classes of lands, that is, the "permissible area" and the "surplus area". There is no third class of land called the "selected area" in contradistinction to the other two. The Legislature did not intend to create a third kind of ownership or tenure, viz., the landowner of selected area or the tenants in occupation of such an area. Section (2), sub-section (5-a), which defines "surplus area" excludes the "reserved area" so called and the area selected by the landowner under section 5-B. In other words, "surplus area" means the area other than the area which has been reserved or selected, and the latter possess the same qualities and characteristics which distinguish them from the "surplus area".

Proviso to section 2(5-a), which defines "surplus area", further provides, that where "reserved area", has not been brought under self-cultivation within six months of reserving the same or getting

possession thereof after ejecting a tenant from it, it would be treated as surplus area. Thus "reserved area" is liable to lose its sanctity where it remains uncultivated by the landowner for a stated period. If "selected area" were to be treated as different in its incidence from the "reserved area," it could never incur the liability contemplated by the proviso. Surely, this could not be the intention of the Legislature, that a "selected area" might be allowed to remain fallow for any length of time, without its ever being treated as a "surplus area". If the policy of the law is to see that culturable area does not remain uncultivated, then this object cannot be carried out in respect of the "selected area", if the latter were to be deemed as a class distinct from the "reserved area". Moreover, there is no logic in depriving the "reserved area" of its privileged character by making it a part of the "surplus area" in case of failure to cultivate, while treating the "selected area" inviolate regardless of the length of the time for which the landowner may allow it to remain uncultivated. A perusal of section 18 is also helpful. A tenant of a landowner other than a "small land-owner" who has been in continuous occupation of the land comprised in his tenancy for a minimum period of six-years, is entitled to purchase it from the landowner, provided the land is not included in the "reserved area" of that landowner. The tenant has also certain other privileges. The value of the land to be purchased is to be assessed artificially on the basis of the average of the prices obtaining for similar land in the locality during the previous ten years. The purchase price shall be three-fourths of the value of the land as so determined. The tenant is permitted to purchase the land in six-monthly instalments not exceeding ten in the manner prescribed; whereas security against purchase by a tenant is given to the landowner of the reserved area, which is expressly excluded from liability of compulsory sale. If "selected area" were to be deemed different from "reserved area", the latter could be compulsorily purchased by the tenant. The object of reserving "selected area" up to the permissible area is, that the landowner may be able to retain it

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and be able to exercise the rights of an owner such as *jus utendi*, right to use, *jus fruendi*, right to its produce or to the fruit, and *jus possidendi*, right to retain possession. These rights the landowner cannot exercise in the case of "surplus area". If "selected area" is, in a class, different from the "reserved area", the landowner is liable to lose it under section 18. The landowner can either have a "reserved area" which is possible only if he has exercised his choice within the first six months of the coming into force of the 1953 Act, or, can select his area exercising his choice within six months of the commencement of the Amending Act, 1955. In neither case can be possess land in excess of the "permissible area." If the area selected up to the permissible limit could have the same incidence as surplus area, and it could be liable to compulsory purchase by a tenant, there would be no security left for the landowner of the selected area so far as self-cultivation is concerned. In other words, his entire land, including the "selected area", would be liable to involuntary sale under section 18. This would be highly inequitable and contrary to the intention and scheme of the Act. "Selection" under section 5-B, if it is without the advantages of "reservation" in the sense of section 5, would confer no advantage whatsoever on the landowner, and expose him to the provisions of section 18 and thus, despite selection, the area selected by him would in no way be different from the "surplus area". According to this reasoning, if "selected area" were to be an entity, distinct from "reserved area", a landowner after six years of occupation by a tenant, could be effectively deprived of his land and thus he would become landless and completely insecure. This result militates against the known intention of the Legislature.

Certain arguments were addressed by the learned counsel for both the parties on the basis of the interpretation of the Rules and the forms. These arguments admit of equivocation and are inconclusive. Our attention was drawn to rule 3 of the Security of Land Tenures Rules, 1953,

which requires a landowner having land in excess of the permissible area and intending to make a reservation in pursuance of the provisions of sections 3, 4, or 5(1) of the Act, to notify in duplicate any reservation to the Patwari of the estate in which the land is situated in form in annexure 'B'. This form requires the landowner to give details of area selected for reservation". There is no merit in the argument, that the form and the rule refer to "area selected for reservation" and not to area selected. It has to be remembered that these are rules of 1953 made before the enactment of section 5-B and other provisions under the Amending Act 46 of 1957. The earlier rules could not anticipate changes in law by subsequent Amending Act.

Our attention was also drawn to form K-2 under rule 13 of the 1956 Rules, read with section 9-A of the 1953 Act as amended by Act 11 of 1955. This form is of an application by the landlord to the Assistant Collector requesting him that the applicant may be put in possession of the lands as they constitute or form part of the "permissible area which I had reserved,—*vide* (give particulars of the intimation of reservation)/or the area that I have selected as my possible area for self-cultivation,—*vide* my application (give particulars of the application made in form E)." This form was later amended in 1960 and the words" or the area that I have selected as my possible area for self-cultivation,—*vide* my application (give particulars of the application made in form E)" have been omitted, by notification No. 1623-ARI (II)-60/1687, dated 4th May, 1960. Reference to this omission has been made in support of the contention that the form K-2 now relates to intimation of reservation, and not to the area selected for self-cultivation. No reason for this amendment has been suggested in the notification, but this might have been done on grounds of redundancy with a view to avoid duplication, as there is no distinction in principle between the area selected and the area reserved. Whatever the reason may be, it will not be correct to construe the statute from the form provided by the statutory

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rules. Another equally futile argument which also begs the question, is that no form is provided for applying for ejectment of the tenant from the area which has been selected under section 5-B on the grounds mentioned under section 9(1)(i). If the area "reserved" included the area "selected", no separate form is required. From this, it cannot be argued, that the landowner of a selected area in contradistinction to the landowner of a reserved area, cannot eject his tenants according to section 9(1)(i). According to the intention of the Act, the eviction of the tenant from the permissible area, after it had been reserved under section 5, or selected under section 5-B, was contemplated with a view to allow the landower to use such area for self-cultivation. The argument on the basis of hardship to the tenant on account of his ejectment is pointless, not only because of the clear purpose of the Act, but also because it was expressly provided by section 9-A that no tenant under section 9(1) would be dispossessed of his tenancy unless he was accommodated on a surplus area in accordance with the provisions of section 10-A or otherwise, on some other land by the State Government. It thus became incumbent upon the State Government to provide land to a tenant, who had been evicted by reason of the area having been "selected" or "reserved" by the landowner within the permissible limit, for self-cultivation.

Mr. Manmohan Mahajan, learned counsel for the respondent-landowner, has drawn our attention to form F, column 3, where the heading is "Area reserved or selected by the landowner. In case no area has been reserved or selected by landowner, the area selected by Collector or Special Collector for the landowner. (give village-wise)." There is just one column under which area is to be given in ordinary acres and standard acres without making any distinction as to whether the area has been 'reserved' or 'selected' by the landowner or by the Collector or Special Collector. The argument is, that as the characteristic features of such areas are identical, the form does not require specification of the nature

of each class of area. This argument again is equally inconclusive either for finding out the intention of the Legislature, or, for the construction of the language of the statute. From the perusal of the Rules and the forms mentioned therein, I cannot derive any assistance, one way or the other, for construing the relevant provisions of the Act.

Punjab Security of Land Tenures (Amendment) Act, 1957, by introducing section 5-B has not in any way deflected or deviated from the main purpose of the Act. The amending Act has not chosen to add a separate definition of the "selected permissible area" referred to in section 5-B. "Reservation" and "selection" have been treated as essentially identical both being out of the "permissible area". The necessity for adding section 5-B was to enable the landowners to select their permissible areas, who, for one reason or the other, had omitted to do so under the 1953 Act, and it was not the intention of the framers of the Act to penalise the landowners who had not exercised the right of reservation within the time provided by the statute. The omission in section 9(1)(i) to refer to the "permissible area" selected under section 5-B can reasonably be attributed to the fact that it partook of the nature of "reserved area" and, therefore, it was treated as such, requiring no separate mention.

The amending Act has not brought about any fundamental change in the main scheme or the policy of the former Act of 1953. After the selection of "permissible area" has been made under the amending Act, it has the same incidence, as the area which could be reserved within six months of the coming into force of the 1953 Act. The tenants' liability to ejectment from the "permissible area" selected under section 5 or section 5-B is essentially of the same character and underlines the same legislative policy. The security of the tenants has not been lessened in any way and the tenants so evicted are entitled to be accommodated by the State on surplus area or other

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lands. The pivotal distinction underlying the entire Act is between the "permissible area" and the "surplus area" and this basic distinction has been maintained under the original and also under the amending Acts. The areas selected either under section 5 or section 5-B are "permissible areas", over which the landowners are given plenary proprietary rights.

The provisions of the Act which deprive the landowners from the exercise of their proprietary rights in full, are to be construed strictly. The statutes which impinge upon the rights whether as regards person or property, are subjected to strict construction. Equivocal words or ambiguous sentences creating reasonable doubt as to their meaning have to be interpreted in a manner so as to give the benefit of doubt to the subject whose rights are being encroached upon. The interpretation of a disabling section has to be in a manner so as to respect such rights. Unless the objects of the Act clearly so provide, an intention to confiscate the property of the subject cannot be imputed to the Legislature. If the language is not plain, the confiscatory or the exproprietory intent must be clearly implied and beyond reasonable doubt. Another important rule of interpretation is, that a statute must be construed so that the intention of the Legislature may not be treated as vain. Where the words used are plain and unambiguous, the Courts are bound to construe them in their ordinary sense regardless of the consequences; and no considerations of hardship or injustice would justify not giving to the language of the statute, its plain meaning. But where the words admit of two or more interpretations, the Courts adopt the construction which is reasonable, just and sensible. In case of doubt or ambiguity, the Courts may adopt a construction which may not even be strictly grammatical, or to give to the words either a liberal or a strict meaning in consonance with the rule of harmonious construction, and in accord with the intention of the Legislature as can be gathered from the purpose of the enactment and the words used therein. It is a well-known rule of beneficial construction that mischief be suppressed and remedy be advanced if

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such a construction can be put without straining the plain language.

Applying the recognised canons of construction, I am led to the conclusion that a landowner who has made his selection of "permissible area" under section 5-B of the Act, is competent to eject a tenant from that area under section 9(1)(i). There is, of course, no room for doubt as to the liability of tenants to be ejected under section 9(1)(ii) to (vii). I find myself in agreement with the reasoning of the Financial Commissioner as given in his order, dated 20th October, 1960. In the result, this civil writ petition fails and is dismissed with costs.

I. D. Dua, J.

INDER DEV DUA, J.—I agree.

B.R.T.

CIVIL MISCELLANEOUS

Before Daya Krishan Mahajan, J.

BISHAN SINGH,—*Petitioner*

versus

CENTRAL GOVERNMENT AND OTHERS,—*Respondents.*

Civil Writ No. 174 of 1961.

1962

April, 27th

Displaced Persons (Compensation and Rehabilitation) Rules, 1955—Rules 56, 62 and 69—Allottees of agricultural lands obtaining land in excess of what they were entitled to—Whether entitled to purchase the excess land.

Held, that the allottees of land to whom the allotment has been made under section 10 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954, are not entitled, by reason of Rule 69, to the benefit of the Chapter in which rules 56 and 62 occur. There is no other provision in the Rules or in the Act whereunder such displaced persons who had taken land in excess of what they were entitled to have a right to purchase that excess in land at any fixed price. The offer by Government to sell such excess to such persons at the price fixed by Government is merely a concession shown to them but it does not confer