

(2004) 02 P&H CK 0001
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 1303 of 1986

Charan Singh

APPELLANT

Vs

Additional Director, Consolidation of Holdings, Punjab

RESPONDENT

Date of Decision : 25-02-2004

Acts Referred:

Citation : (2004) 3 LJR 531 : (2004) 3 RCR(Civil) 297

Hon'ble Judges : Ashutosh Mohunta, J

Advocate : Mr. Gurcharan Singh, Advocate.For the Respondent Nos. 1 and 3, Mr. Ashish Sharma, A.A.G., Punjab, Mr. M.S. Joshi, Advocate.For the Respondent Nos. 4 to 6, None., Advocates for appearing Parties

Judgement

Ashutosh Mohunta, J.—The prayer made in this petition under Article 226/227 of the Constitution of India is to the quashment of orders dated 22.9.1983 (Annexure P1), 18.2.1985 (Annexure P2) and 9.1.1986 (Annexure P4).

2. In brief the facts of the case are that Bachittar Singh respondent No. 3 had purchased 8 kanals and 17 marlas of land out of Khasra No. 4 situated in the revenue estate of village Khiwa Khurd, Tehsil Mansa, somewhere before the start of proceedings under the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948 (for short 'the Act') in the year 1960. But mutation of the land having been purchased by Bachittar Singh was not entered in the revenue record. However, in the column of possession and cultivation of the Jamabandi of the year 195758, he was shown to be the cultivator and in possession of the land. As in the revenue record, the ownership of respondent No. 3 was not entered, at the time of consolidation of holdings in the year 1960. Khasra No. 4 was transferred in the name of the petitioner and no compensation was given to him (respondent No. 3). Consequently, Bachittar Singh, respondent No. 3, filed a petition under Section 42 of the Act before the Additional Director, Consolidation of Holdings, Punjab (respondent No. 1). Thereupon, the Additional Director (respondent No. 1) issued notice to the petitioner Charan Singh and his sons (respondent Nos. 4 to 6). The petitioner as well as respondent Nos. 4 to 6

were served but they remained absent at the time of hearing before respondent No. 1. They were proceeded against ex parte. Ultimately, vide order dated 22.9.1983, the Additional Director directed the Consolidation Officer, Hoshiarpur (respondent No. 2) to compensate respondent No. 3 by giving him possession of 8 kanals and 17 marlas of land out of the khata of the petitioner and respondent Nos. 4 to 6 (sons of the petitioner). Resultantly, respondent No. 2 complied with the directions of the Additional Director and after verifying the sale deeds produced by respondent No. 3 and on perusing the revenue record ordered the transfer of the land measuring 7 kanals and 14 marlas after deducting the same from the Khata of the petitioner and respondent Nos. 4 to 7, vide order dated 18.2.1985 (Annexure P2). The order dated 18.2.1985 was challenged by the petitioner before the Additional Director (respondent No. 1) by filing a petition under Section 42 of the Act. The petition filed by Charan Singh petitioner was dismissed by the Additional Director (respondent No. 1) vide order dated 4.1.1986 (Annexure P4) on the ground that the Consolidation Officer (respondent No. 2) had simply complied with the directions given by the Additional Director vide order dated 22.9.1983 (Annexure P1). Now Charan Singh has filed this petition under Article 226 of the Constitution to challenge the orders dated 22.9.1983 (Annexure P1), 18.2.1985 (Annexure P2) and 4.1.1983 (Annexure P4).

3. I have heard the learned counsel for the parties and have gone through the case file.

4. There is no dispute with regard to the fact that respondent No. 3 had purchased 8 kanals and 17 marlas of land out of Khasra No. 4 situated in the revenue estate of village Khurd, Tehsil Mansa, prior to the start of consolidation proceedings in the village. He was not paid any compensation for the transfer of the land in the name of the petitioner and respondent Nos. 4 to 6 at the time of consolidation of holdings in the year 1960. It is also the admitted fact that before passing the order dated 22.9.1983 vide which the Additional Director (respondent No. 1) had directed the Consolidation Officer concerned (respondent No. 2) to give possession of the land to respondent No. 3 out of the Khata of the petitioner and respondent Nos. 4 to 6, a notice was issued to them. Neither the petitioner nor respondent Nos. 4 to 6 had put in appearance before the Additional Director. They were proceeded against ex parte. The order dated 22.9.1983 was not challenged by them before any forum. Ultimately, the Consolidation Officer, Hoshiarpur (respondent No. 2) passed the order dated 18.2.1985 in compliance with the order dated 22.9.1983 passed by the Additional Director (respondent No. 1).

5. The argument raised by the learned counsel for the petitioner that respondent No. 3 could not challenge the consolidation proceedings after a lapse of 30 years and also that the impugned order dated 22.9.1983 had been passed without affording an opportunity of hearing to the petitioner, is of no avail in view of the fact that before passing the order dated 22.9.1983 by the Additional Director (respondent No. 1), notices were given to the petitioner as well as respondent

Nos. 4 to 6, but they did not appear before him. Consequently, they were proceeded against ex parte. The said order vide which the directions were given to the Consolidation Officer to give possession of the area of 8 kanals 17 marlas to respondent No. 3 out of the khata of the petitioner and respondent Nos. 4 to 6, was not challenged by them before any forum. The said order had attained finality by the time the Consolidation Officer, Hoshiarpur (respondent No. 2), had passed the order dated 18.2.1985.

6. In the light of above discussion, I do not find any merit in this petition. It is, accordingly, dismissed. However, shall be no order as to costs.