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(1976) 05 SHI CK 0007

In the High Court Of Himachal Pradesh

Case No : Revenue Revision No''s. 57 and 76-A

Chetu — APPELLANT

Vs

Massadi and Another — RESPONDENT

Date of Decision : 03-05-1976

Acts Referred:
Himachal Pradesh Land Revenue Act, 1954 — Section 14, 15, 17, 17(1), 17(3)

Citation : (1977) ShimLC 220

Hon'ble Judges : P.K. Mattoo, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

P.K. Mattoo, F.C., J.—This is a revision petition against the order of Assistant Collector, Grade II, dated 23rd December, 1975, whereby he has attested the mutation of proprietary rights of land comprising khasra No. 356 in Khata No. 36/51 of village Khulu, Tehsil Churah, District Chamba, admeasuring 4 big has and 12 bis was in favour of Sher Mohd., the recorded sub-tenant.

2. The Petitioner has not filed any appeal against the order of Assistant Collector, Grade II, but has come up in revision against the said order invoking the revisional jurisdiction of the Financial Commissioner, u/s 17 of the Himachal Pradesh Land Revenue Act, hereinafter called the Act.

3. In the grounds of revision, it has been mentioned by the Petitioner that since he did not have any knowledge about the impugned order till the middle of February, 1976, it was not possible for him, either to file an appeal before the Collector or to file a revision petition or a second appeal before the Divisional Commissioner, the time having expired. The Petitioner was accordingly approaching this Court for interference on the revisional side.

4. Since the exercise of jurisdiction u/s 17(1) is involved in this case, I considered it necessary to hear the Petitioner before admitting the Revision Petition for consideration.

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5. It was argued before me, by the learned Counsel for the Petitioner that the Financial Commissioner had unfettered powers to call for the records of any case pending before or disposed of by any Revenue Officer sub-ordinate to him and that as such the present case should be admitted as a matter of course.

6. Section 14 of the Act, provides that an appeal shall lie from the original or appellate order of a Revenue Officer to the Collector when the order is made by an Asstt. Collector of either grade; to the Commissioner when the order is made by a Collector; to the Financial Commissioner when the order is made by a Commissioner:

Provided that:

(i) when an original order is confirmed on first appeal, a further appeal shall not lie;

(ii) when any such order is modified or reversed on appeal by the Collector, the order made by the Commissioner on further appeal, if any, to him shall be final.

7. Section 15 of the Act deals with the limitation for appeals. It is provided in this section that the period of limitation for an appeal u/s 14 shall run from the date of the order appealed against, and shall be as follows:

(a) when the appeal lies to the Collector-thirty day;

(b) when the appeal lies to the Commissioner-sixty days;

(c) when the appeal lies to the Financial Commissioner ninety day.

8. Section 17 of the Act deals with the powers to call for, examine, and revise proceedings of Revenue Officers and reads us follows:

17. Power to call for, examine and revise proceedings of Revenue Officers.-

(1) The Financial Commissioner may at any time call for the record of any case pending or disposed of before any Revenue Officer subordinate to him.

(2) A Commissioner or Collector may call for the record of any case pending before, or disposed of by, any Revenue Officer under his control.

(3) If in any case in which a Commissioner or Collector has called for a record he is of opinion that the proceedings taken or order made should be modified or reversed, he shall report the case with his opinion thereon for the orders of the Financial Commissioner.

(4) The Financial Commissioner may in any case called for by himself under Sub-section (1) or reported to him under Sub-section (3) pass such order as he thinks fit:

Provided that he shall not under this section pass an order reversing or modifying any proceedings or order of a subordinate Revenue Officer and effecting any question of right between private persons without giving those persons an

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opportunity of being heard.

9. It is obvious from the above that while an aggrieved party can come up in appeal as a matter of right, the same is not the case when the revision petition is moved u/s 17 of the Act. The arguments advanced by the learned Counsel for the Petitioner, if accepted without caution, would have the effect of negativing the provisions of Section 15 of the Land Revenue Act. The Financial Commissioner before entertaining a revision petition u/s 17 of the Act, has to satisfy himself that all other remedies available to the Petitioner have been duly and diligently exhausted by him and that a prima facie case warranting his interference is made out.

10. It has been held in Subhan Ali v. Jehan Khan LLT 1933 page 59) that every case in which the Financial Commissioners powers of revision are invoked when the limitation for appeal has expired, should be most rigorously scrutinised in the light of the precedent which would be set up, if application was admitted. I have also earlier in Sri Chand and Ors. v. Ram Dia Revision Petition Nos. 48 and 76 decided on 26-3-1976 held that mere premonition of unfair treatment no based on facts, cannot be made a ground for the exercise of jurisdiction in revision, in cases where specific remedy in the nature of appeal is provided for.

11. In the present case, the Petitioner had the right to appeal against the order of Asstt. Collector, Grade II, but he did not file any such appeal. He could also have filed a revision petition before the Commissioner. This his also not been done. The only argument advanced in justification of not doing so is that he did not have any knowledge of the impugned order till the expiry of the prescribed period of limitation. This assertion of the Petitioner does not provide sufficient ground to justify the admission of the revision petition.

12. In view of the foregoing, I do not find any justification for admitting the revision petition. The petition is accordingly not admitted.

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