
(1991) 07 P&H CK 0041

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 11292 of 1988

Chhota Singh

APPELLANT

Vs

Additional Director, Consolidation of Holdings, Punjab

RESPONDENT

Date of Decision : 16-07-1991

Acts Referred:

Citation : (1991) PLJ 535 : (1991) 2 RRR 515

Hon'ble Judges : N.K Sodhi, J

Advocate : Vivek Suri, Advocate, A.S. Cheema, Sr. Advocate,, Advocates for appearing Parties

Judgement

N.K. Sodhi, J.

1. Nikka Singh and Nidhan Singh were real brothers and they had a joint Khela of Khewat No. 25 in village Laddi, Tehsil and District Sangrur. Chhota Singh, petitioner, is the successorininterest of Nidhan Singh whereas Hardial Singh, respondent, is successorininterest of Nikka Singh. Prior to the consolidation of the holdings in the village, Nidhan Singh exchanged 3 bighas and 15 biswas of land bearing Khasra Nos. 976 and 968 from Khewat No. 25 with Darshan Singh, Pal Singh and others and in lieu thereof got an equal area of land from them comprised in Khewat No. 27. This exchange was made sometime in the year 1951. When the joint holding was partitioned during consolidation proceedings Nikka Singh was given 24 bighas and 5 biswas of land from Khewat No. 25 whereas Nidhan Singh was only given 20 bighas and 10 biswas out of that Khewat and the residual area was exclusively allotted to him from Khewat No. 27. In other words, Nikka Singh got his entire land from Khewat No. 25 whereas Nidhan Singh was compensated out of Khewat Nos. 25 and 27. The exchanged land was mutated in the name of Nidhan Singh on 23.3.1952. It was sometime in the year 1985 that Hardial Singh, respondent No. 2, moved a petition before the Additional Director, Consolidation, Punjab, Chandigarh under Section 42 of the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948 (hereinafter called "the Act") challenging the partition proceedings on the ground

that holding between the parties was joint and, therefore, both Khewat Nos. 25 and 27 should have been partitioned on the basis of their value jointly amongst the parties. The grievance of Hardial Singh respondent, was that during consolidation proceedings land from Khewat No. 25 alone was given to Nikka Singh whereas Nidhan Singh was given land from Khewat No. 25 and the exchanged area in Khewat No. 27. The Additional Director, Consolidation, accepted the petition filed by Hardial Singh holding that the partition should have been on the basis of value in respect of both Khewats No. 25 and 27 and that Nikka Singh could not be denied the right in the exchanged land in Khewat No. 27 as the holding was joint. The case was remanded to the Consolidation Officer with a direction that both the parties should be apportioned the land in Khewats No. 25 and 27 on the basis of value on equal basis as per its order dated 10.2.1986.

2. After the remand, the Consolidation Officer vide its order dated 16.12.1987 carried out the direction of the Additional Director and gave the share of land to the parties in both the Khewats No. 25 and 27. An appeal filed by Chhota Singh, petitioner, against the order of the Consolidation Officer was rejected by the Settlement Officer as per order dated 19.5.1988. The petitioner then moved the Additional Director, Consolidation, Punjab, Chandigarh, under Section 42 of the Act alleging that the orders dated 10.2.1986, 16.12.1987 and 19.5.1988 were against the Scheme and law and were liable to be set aside. This petition was rejected by the Additional Director who found that the Consolidation Officer had fully complied with the directions contained in the order of remand, dated 10.2.1986 and that the appeal filed by the petitioner was rightly dismissed by the Settlement Officer. It is against all these orders that the petitioner has filed the present writ petition.

3. The only ground on which the orders passed by the authorities below have been challenged before me is that Nikka Singh and Nidhan Singh who were predecessors in interest of the parties had been occupying the land with different Khasra numbers in their independent rights and in "Hissedari Kast" and the exchanged area of 3 bighas and 15 biswas of land from Khewat No. 27 matured in the ownership of Nidhan Singh and the same was even mutated by the Assistant Collector on 23.3.1952. It was argued by the learned counsel for the petitioner that Nidhan Singh, predecessor in interest of the petitioner, became the owner of the exchanged land bearing Khasra No. 1017 in Khewat No. 27 and it was rightly allotted to Nidhan Singh when partition took place during the consolidation proceedings. The fact that land was in separate possession of Nidhan Singh and Nikka Singh as "Hissedari Kasht" has been emphatically denied by respondent No. 2 in the written statement filed in this Court. Not only this, the authorities below have also found as a fact that Khata of Nidhan Singh and Nikka Singh was joint and that partition between the parties ought to have been on the basis of value in respect of both Khewats No. 25 and 27. If the Khata of the parties was joint prior to the exchange of land (as has been found by the authorities below), then the exchanged land which came into the hands of

Nidhan Singh also fell into the joint Khata and partition between the parties ought to have been on the basis of value in respect of both the Khewats. This did not happen. Nikka Singh was given land exclusively from Khewat No. 25 whereas Nidhan Singh was allotted land from Khewat No. 25 and also the exchanged land from Khewat No. 27. In these circumstances no meaningful argument could be advanced by the learned counsel for the petitioner while challenging the correctness of the orders passed by the authorities below. Even otherwise, when the Additional Director remanded the case back to the Consolidation officer on 10.2.1986 the petitioner did not immediately challenge the said order but took a chance before the Consolidation Officer and then even filed an appeal before the Settlement Officer and again moved the Additional Director. Having failed there he sought to challenge the orders in this Court by filing the present petition, If he had any grievance against the order dated 10.2.1986, he should have come to this Court straightaway.

4. Lastly, it was urged by the learned counsel for the petitioner that Hardial Singh, respondent moved the Additional Director, Consolidation, after a period of more than 30 years and did not challenge the mutation which was sanctioned in favour of Nidhan Singh in regard to the exchanged land. It is true that the petition under Section 42 of the Act was filed by Hardial Singh sometime in the year 1985 after more than 30 years but it is now well settled that there is no period of limitation in regard to the petitions under Section 42 of the Act and if the repartition proceedings had not been properly conducted it was open to the Additional Director to interfere in the matter as he did in the present case.

5. For the reasons recorded above, there is no merit in the petition and the same is dismissed with no order as to costs.