
(2000) 08 P&H CK 0017
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 9722 of 1997

Gram Panchayat, Nawan Killa

APPELLANT

Vs

Additional Director, Consolidation

RESPONDENT

Date of Decision : 18-08-2000

Acts Referred:

East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948 —
Section 42

Citation : (2001) 1 RCR(Civil) 254

Hon'ble Judges : K.S. Garewal, J;Jawahar Lal Gupta, J

Bench : Division Bench

Advocate : Mr. Baljinder Singh, for the Appellant; Mr. M.C. Berry, DAG and Mr. Kanwaljit Singh, for the Respondent

Judgement

Jawahar Lal Gupta, J.—The Gram Panchayat is aggrieved by the order dated March 7, 1996 by which an application u/s 42 of the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948, filed by respondent Nos. 2 to 6 was allowed by the Additional Director, Consolidation of Holdings. It was held that during consolidation a pro-rata cut was imposed to provide land for use for common purposes. After the need for common purposes had been fulfilled, the remaining land was described as "Jumla Malkan Wall Digar Hakdaran Arazi Hasab Rasad" in the revenue record. It had to be distributed amongst the right-holders according to their respective shares. Consequently, directions were given that the Consolidation Officer shall hear all the interested persons and partition the land in accordance with law. In pursuance to these directions the Consolidation Officer passed the order dated April 30, 1997 by which different right-holders were allotted land according to their entitlement. The petitioner prays that the order dated March 7, 1996 passed by the Additional Director be set aside.

2. A written statement has been filed on behalf of respondent Nos. 2, 4 and 5. The claim made by the petitioner has been controverted. It has been inter-alia

averred that the land belongs to the village Proprietary body. It was described as "Jumla Malkan Wan Digar Hakdaran Arazi Hasab Rasad". That being the position, the members of the Proprietary body were entitled to their shares. The action of the competent authority in passing the order is legal and valid. The respondents pray that the writ petition be dismissed.

3. Counsel for the parties have been heard.

4. The solitary contention raised by Mr. Baljinder Singh, learned counsel for the petitioner, is that the respondents had approached the Additional Director after an inordinately long delay. Thus, their petition u/s 42 of the Act should have been dismissed on that ground alone. Reliance in support of this contention has been placed on the decision of their Lordships of the Supreme Court in *Grant Panchayat, Kak-ran v. Additional Director of Consolidation* another 1997(2) PLJ 375 : 1997(4) RRR 498 (Calcutta). The claim made on behalf of the petitioner has been controverted by the learned counsel for the respondents.

5. It is not disputed that the land in dispute originally belonged to the Proprietary body of the village. It was by the imposition of a pro-rata cut that they were deprived of a part of their holdings and it was pooled together for use for common purposes. The land which was required for common purposes was utilised. The remaining land was recorded as belonging to the Proprietary body in the revenue record. Thus, it is clear that the petitioner-Panchayat has no right in the property.

6. Despite the fact that the land was recorded as belonging to the village Proprietary body, the possession was not delivered to them. Thus, they felt the need to have it partitioned so that they could get the possession. Consequently, they had approached the Additional Director who had accepted the claim vide his order dated March 7, 1996. In the circumstances of the case, we are satisfied that the petitioner had no title in the property and, thus, has no cause for grievance against the impugned order.

7. It is true the respondents had approached the Director after a considerable length of time. However, no third party rights were created. No interest of the petitioner was prejudiced by the delay. On the contrary, the respondents themselves had suffered an avoidable loss. In the circumstances of the case, their rights cannot be taken away merely because of the delay in approaching the Director. In any event, the Additional Director had not dismissed their petition on the ground of delay. The authority has upheld the claim. Thus, we find no ground to interfere with the exercise of discretion by the Additional Director.

8. In *Gram Panchayat Kakran's* case, it was undoubtedly observed by their Lordships that "the party which is aggrieved by the scheme or by re-partition" cannot be permitted to make an application u/s 42 of the Act after "an unreasonably long lapse of time. Even where no period of limitation is proscribed, the party aggrieved is required to move the appropriate authority for

relief within a reasonable time". It is, undoubtedly, so. However, in the present case, the respondents were not aggrieved by the provisions of the scheme or by the re-partition proceedings. The initial scheme of the proceedings were in conformity with law. However, they were wanting the restoration of the land which had been initially taken away from them. This was their rightful due. No fault can be found with the view taken by the authority. In fact, similar directions have been given by two Benches of this Court.

No other point has been raised.

In view of the above, we find no merit in this writ petition.

It is, consequently, dismissed. No costs.

9. Petition dismissed.