

(2008) 08 P&H CK 0118
In the Punjab And Haryana At Chandigarh
Case No : C.W.P. No. 3709 of 1984

Gram Panchayat Village Panvan

APPELLANT

Vs

Additional Director, Consolidation and Holdings and Others

RESPONDENT

Date of Decision : 19-08-2008

Acts Referred:

East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948 — Section 42
Punjab Village Common Lands (Regulation) Act, 1961 — Section 11

Citation : (2009) 1 ILR (P&H) 789

Hon'ble Judges : Rajive Bhalla, J

Bench : Single Bench

Advocate : Arun Palli and Jai Bhagwan, for the Appellant; N.S. Pawar, Addl. A.G. Punjab for Respondents Nos. 1 and 2, S.D. Sharma and Bindu Goel, for Respondents Nos. 3 to 43, for the Respondent

Final Decision : Allowed

Judgement

Rajive Bhalla, J.—The Petitioner, Gram Panchayat, prays for the issuance of a writ in the nature of Certiorari, for quashing the order, dated 12th July, 1984, passed by Respondent No. 1, namely; the Additional Director, Consolidation and Holdings, Punjab, Chandigarh.

2. More than three decades after consolidation proceedings concluded and without filing any appeal against the proceedings of repartition, the Respondents, approached the Additional Director, Consolidation, u/s 42 of the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948 (hereinafter referred to as the "Consolidation Act"), with a prayer that as their land had been wrongly reflected as Shamlat Deh during the process of repartition, this error be rectified. The Additional Director, Consolidation vide order dated 12th July, 1984 held that revenue authorities had no jurisdiction to alter the ownership of the land to the name of the Gram Panchayat after consolidation. Mutation No. 338, sanctioned by the revenue authorities was, therefore, set aside and the matter

was remanded to the Consolidation Officer to distribute land measuring 257 Bighas and 3 Biswas amongst the right holders.

3. Counsel for the Petitioner submits that the Director, Consolidation, has no jurisdiction to set aside a mutation entered and sanctioned by revenue authorities. The Additional Director, Consolidation can only deal with matters, decided during the proceedings of consolidation. It is further submitted that the Additional Director has no jurisdiction to entertain and decide the question, whether land vests or does not so vest in a Gram Panchayat. This question can only be decided by the Collector, exercising powers u/s 11 of the Punjab Village Common Lands (Regulations) Act, 1961. Reliance in this regard is placed upon two Judgments of the Hon'ble Supreme Court reported as Gram Panchayat Village Sidh, v. Additional Director, Consolidation of Holdings, Punjab and Ors. 1997 (I) PLJ 313 and Gram Panchayat, Nurpur v. State of Punjab and Ors. 1997 (I) PLJ 268.

4. Counsel for the Respondents, however, submits that the revenue record, preceding consolidation, namely; the jamabandi for the year 1944-45, records the Respondents as owner in possession. An error by the revenue authorities by pre-fixing the word "Shamlat" before their names was rightly rectified by the Additional Director, Consolidation. It is submitted that Section 42 of the Consolidation Act, empowers the Additional Director to correct any error in the scheme or in re-partition proceedings. As the impugned order does not suffer from any error of jurisdiction or of law, the instant petition be dismissed.

5. I have heard learned Counsel for the parties and perused the impugned order.

6. Admittedly, the revenue authorities sanctioned Mutation No. 338 describing the land in dispute as Shamlat Deh. The Additional Director, Consolidation, held that the revenue authorities could not alter the revenue record, as sanctioned during consolidation proceedings and therefore, set aside this mutation.

7. It is no more in dispute, that it is no part of the jurisdiction of the Additional Director, Consolidation, u/s 42 of the Consolidation Act to entertain and decide any dispute, whether any land has vested or has not so vested in a Gram Panchayat. Such a dispute can only be decided by the Collector u/s 11 of the Punjab Village Common Lands (Regulations) Act, 1961. Reference in this regard may be made to judgments of the Hon'ble the Supreme Court in Gram Panchayat Village Sidh's case and Gram Panchayat, Nurpur's case (supra). The mutation reflecting the Gram Panchayat as owner, could therefore, not have been set aside by the Additional Director, Consolidation, in the exercise of jurisdiction u/s 42 of the Consolidation Act. This apart, Section 42 of the Consolidation Act does not empower, the Additional Director, Consolidation, exercising jurisdiction u/s 42 of the Consolidation Act, to entertain any application, or to pass any orders with respect to the legality of mutation sanctioned by revenue authorities, after consolidation. Section 42 of Consolidation Act, can only be invoked with respect to orders passed during consolidation proceedings. Mutation No. 338 was

admittedly sanctioned by revenue authorities after conclusion of consolidation proceeding. The Additional Director, Consolidation, therefore, had no jurisdiction to entertain a challenge to the legality of Mutation No. 338, which was admittedly entered and sanctioned by revenue authorities after consolidation proceedings concluded.

8. As the impugned order is null and void, the writ petition is allowed and the order, dated 12th July, 1984 is set aside, leaving it open to the Respondents to seek adjudication as to the question of title, if any, in the property in dispute by filing appropriate application, before the Collector concerned, in accordance with the provisions of Section 11 of the Punjab Village Common Lands (Regulations) Act. In case, such an application is filed within two months, the Collector shall decide the application within a period of six months from its filing. No costs.