
(2010) 12 SHI CK 0155
In the High Court Of Himachal Pradesh
Case No : CMPMO No. 316 of 2004

Hira Lal

APPELLANT

Vs

The Additional Director, Consolidation and Others

RESPONDENT

Date of Decision : 27-12-2010

Acts Referred:

Himachal Pradesh Holdings (Consolidation and Prevention of Fragmentation) Act, 1971
— Section 54

Citation : (2010) 12 SHI CK 0155

Hon'ble Judges : Deepak Gupta, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Deepak Gupta, J

1. This petition is directed against the order dated 28.5.2004 passed by the learned Additional Director, Consolidation of Holdings whereby he rejected the Revision Petition filed by the present Petitioner.

2. It is not necessary to give the detailed facts of the case. It would be pertinent to mention here that previously also, a similar Revision Petition filed by the Petitioner was rejected and thereafter, this Court passed a detailed order, Annexure P/7 dated 26.6.2003 in CWP No. 333 of 1993 and the operative portion of the order reads as follows:

In the result, this writ petition is allowed. The case is remanded to the Addl. Director of Consolidation to restore the revision to its original number and decide the same afresh in accordance with law after giving reasonable opportunity to the parties. Costs on the parties.

Interim order shall stand vacated.

3. A bare perusal of the operative portion of the aforesaid order shows that the learned Additional Director of Consolidation was directed to decide the matter

afresh in accordance with law by a reasoned order. I have gone through the order in detail and except for the last paragraph of the order, the other portions of the order only give a factual narration of the fact and the operative portion of the order of the learned Additional Director of Consolidation reads as follows:

Keeping in view, the above I am of the opinion that change in the allotted area between the parties again and again without any solid reason has increased the litigation instead of solving them. The present allotment is in the consolidated manner and is in the interest of the parties which is also as per the scheme of consolidation. Also the Petitioner had asked for chalyali land in place of Dhani. Now he cannot claim the same. So, I find no merit in the case the revision petition is therefore dismissed. The file be consigned to the General Record Room after due completion. Announced.

4. It is apparent that the learned Additional Director, Consolidation has not gone into the question "Whether the Petitioner, Hira Lal is actually entitled to this land or not?" He has also not gone into the question "Whether the Petitioner, Hira Lal is bound by the statement which formed part of Resolution No. 19 or not?" Without deciding these questions, the learned Additional Director of Consolidation has disposed of the petition in a whimsical manner by making rather sweeping observations that the litigation between the parties is being increased. Every party has a right to voice its grievance and seek redressal of its grievance before an appropriate Court/Forum. Merely because the litigation is increasing is not a ground to set aside or confirm an order. The rights of the parties have not been ascertained by the learned Additional Director of Consolidation. He has also relied upon the alleged statement of the Petitioner that he had asked for chalyali land in place of Dhani. This may be true but it has been urged before me that the Petitioner has not even been given Chalyali land in place of Dhani land.

5. I am not going into the question whether the Petitioner has been given Chalyali land or not but the fact remains that there is no finding of the Additional Director of Consolidation in this regard. There is material on record to show that the private Respondents themselves had challenged the validity of Resolution No. 19 and it is only in this Resolution that such offer was made by the Petitioner. I have purposely not gone into the merits of the case since it is for the Additional Director, Consolidation to decide the case on merits. The matter is again remanded to the learned Divisional Commissioner, Mandi since the post of Additional Director, Consolidation stands abolished. I have been informed at the Bar that the powers of the State u/s 54 of the H.P Holdings (Consolidation and Prevention of Fragmentation) Act, 1971 are vested with the Divisional Commissioner. It is made clear that the revisional authority shall decide the dispute on merits and consider all contentions raised by the parties and passed a reasoned order in this behalf.

6. In view of the above discussion, the petition is allowed and the matter is remanded back to the learned Divisional Manager, Mandi. No costs.