
(2010) 12 SHI CK 0179
In the High Court Of Himachal Pradesh
Case No : CWP No. 913 of 2007

Jagdish Ram

APPELLANT

Vs

Director Consolidation and Another

RESPONDENT

Date of Decision : 16-12-2010

Acts Referred:

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

Citation : (2010) 12 SHI CK 0179

Hon'ble Judges : Surjit Singh, J

Bench : Single Bench

Judgement

Surjit Singh, J.—Petitioner is aggrieved by order Annexure P-3, passed by Director Consolidation in a petition, u/s 54 of the H.P. Holdings (Consolidation and Prevention of Fragmentation) Act, 1971, filed before him by Respondent No. 2 Shri Rawan. His grievance is that the petition was hopelessly barred by limitation, having been filed about 15 years, after the passing of the order that had been challenged in the said petition. Also, it is alleged that petition was filed on 27th February, 2007 and notice was issued to the Petitioner for 26th March, 2007, on which date Petitioner's counsel appeared but the Director Consolidation, without hearing his counsel, passed the impugned order, remanding the case to Consolidation Officer, Bilaspur.

2. I have heard learned Counsel for the parties and gone through the record.

3. It is not in dispute that the petition was instituted on 27th February, 2007 and notice was issued to the Petitioner for 26th March, 2007, and the impugned order was passed on 26th March, 2007, itself. Though there is nothing on the record, suggesting that Petitioner's counsel prayed for adjournment for filing any reply to the main petition or to the application for stay, yet the normal practice is that on the first date Power of Attorney is filed and opportunity is afforded to the opposite party to file reply, if any, and the matter is then posted for final hearing. In the present case, this practice was not followed.

4. In view of the above stated position, impugned order is set aside and the matter is remanded. I have been told that the post of Director Consolidation has been abolished and the powers have been delegated to the Divisional Commissioners. The area, to which the present matter pertains, falls within the jurisdiction of Divisional Commissioner, Mandi. So, the matter is ordered to be sent to Divisional Commissioner, Mandi, with a direction to dispose of the petition, u/s 54 of the H.P. Holdings (Consolidation and Prevention of Fragmentation) Act, filed by Respondent No. 2 Shri Rawan, in accordance with law. Parties are directed to appear before the Divisional Commissioner, Mandi, on 3rd January, 2011.

5. Writ petition stands disposed of.