
(2000) 11 P&H CK 0055
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 15098 of 2000

Jagjit Singh

APPELLANT

Vs

Additional Director Consolidation of Holdings, Punjab

RESPONDENT

Date of Decision : 07-11-2000

Acts Referred:

Constitution of India, 1950 — Article 226
East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948 —
Section 42

Citation : (2001) 4 RCR(Civil) 24

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

Bench : Division Bench

Advocate : Mr. Jasbir Singh, for the Appellant;

Final Decision : Dismissed

Judgement

Jawahar Lal Gupta, J.—The petitioners are aggrieved by the order dated November 26, 1999 passed by the Additional Director Consolidation of Holdings, Punjab. A copy of this order has been produced as Annexure P12 with the writ petition. By this order the competent authority has recalled the order dated May 11, 1995 by which the application of the present petitioners u/s 42 of the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948 had been accepted. It was held that the petitioners were entitled to the allotment of additional area. A copy of this order dated May 11, 1995 has been produced as Annexure P8 with the writ petition.

2. The order at Annexure P8 was challenged by respondent No. 3 and fifteen others. It was inter alia alleged that the consolidation proceedings in the village had been concluded in the year 1955. The present petitioners had filed the petition u/s 42 of the Act on February 15, 1995. There was a long delay. On an earlier occasion their claim had been rejected by the Additional Director vide order dated June 29, 1964. Thus, the claim could not have been entertained after a lapse of almost 40 years. It was also alleged that in fact the present

petitioners had been allotted area in excess of their entitlement and that their claim was not tenable on merits.

3. The Additional Director by the impugned order which runs into about 17 pages has found as a fact that there was a delay of 40 years. He has further found that against the "entitlement of standard value of Rs. 101 Anna 14 Paisa 6" the petitioners had been "given land valuing of Rs. 102 Anna 13 Paisa 0". It has been further found that the claim made by the petitioners' father-Shri Karam Singh on earlier occasions had been rejected by the Consolidation Officer, the Settlement Officer, the Assistant Director and the Additional Director. Thus, the petition filed by respondent No. 3 and others was allowed. Aggrieved by the order, the petitioners have filed the present writ petition.

4. Mr. Jasbir Singh, learned Counsel for the petitioners, contends that in the circumstances of the case the delay should have been condoned. He further submits that the petitioners had been actually allotted area less than what they were entitled to. Thus, the Additional Director has erred in recalling the order passed on May 11, 1995. Is it so?

5. Admittedly, the consolidation proceedings had been concluded in the year 1955. The claim of the petitioners' father had been rejected by the Additional Director in a petition u/s 42 of the Act on June 29, 1964. The petition in which the order dated May 11, 1995 had been passed, was actually filed on February 15, 1995. Respondents No. 3 to 18 who were likely to be adversely affected by the acceptance of the petitioner's claim were not parties. It was in this situation that the order dated May 11, 1995 had been passed. However, on coming to know of the order, they had approached the Additional Director in a petition u/s 42 of the Act and raised the objection of delay. This objection has been accepted by the Additional Director.

6. On examination of the matter we are satisfied that the view taken by the Collector is correct. The factual position is not in dispute. It is apparent that there was a delay of almost 30 years as the claim made by the father of the petitioners had been, admittedly, rejected on June 29, 1964. It was after a lapse of more than 30 years that the petitioners had filed an application u/s 42 of the Act in February, 1995. In this situation, the view taken by the Additional Director is in conformity with the rule enunciated by their Lordships of the Supreme Court in Gram Panchayat, Kakran Vs. Addl. Director of Consolidation and Another, . Thus, no fault can be found with the order on this ground.

7. As for the merits of the controversy, it has been found as a fact that the petitioners were entitled to the allotment of an area valuing Rs. 101 Anna 13 Paisa 6. A categorical finding of fact has been recorded that the petitioners have got land of the value of Rs. 102 Annas 13. It has also been observed that even on earlier occasions it had been found that the land allotted to the petitioners was in excess of their entitlement. Nothing has been pointed out to show that the finding is wrong. Thus, we find no ground to interfere with the finding of fact

recorded by the authority.

8. Mr. Jasbir Singh contends that the order dated May 11, 1995 had already been upheld by a Bench of this Court in CWP No. 8511 of 1999. A copy of the order has been produced as Annexure P11 with the writ petition. This was a petition which had been filed by Tar-lochan Singh and two others. The order dated March 28, 1995 had been challenged. Mr. Jasbir Singh states that it is the same order as the one at Annexure P8. Assuming it to be so, it is apparent that the writ petition had been filed after a lapse of four years. Still further, it is not disputed that respondents No. 3 to 18 who had approached the Additional Director in a petition u/s 42 of the Act were not parties in the case. Thus, there is no inter-party determination of the dispute. The decision in Tarlochan Singh's case is not applicable in so far as the claim made by respondents No. 3 to 18 is concerned. Since they were not parties to the writ petition, it cannot be said that the order in their favour is liable to be set aside.

9. Faced with the above situation, Mr. Jasbir Singh has made a faint attempt to contend that respondents No. 3 to 18 have no interest in the land. Thus, the petition u/s 42 of the Act was not maintainable. We are unable to accept this contention. Admittedly, land which was a part of the "shamlat" had been allotted to the petitioners by the order dated May 11, 1995. Indisputably, every right-holder in the village has an interest in the shamlat deh. Since their share was likely to be affected, respondents No. 3 to 18 had, a cause for grievance. They had approached the Director. Their claim having been accepted the petitioners cannot claim that they had no interest in the property.

10. No other point has been raised.

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

12. It is, consequently, dismissed in limine.

13. Petition dismissed.