
(2010) 03 DEL CK 0080
In the Delhi High Court
Case No : Writ Petition (C) 7092 of 2007

Kuldeep Singh

APPELLANT

Vs

Government of NCT and Another

RESPONDENT

Date of Decision : 03-03-2010

Acts Referred:

East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948 —
Section 21(4), 41, 41(1)

Citation : (2010) 03 DEL CK 0080

Hon'ble Judges : Sanjiv Khanna, J

Bench : Single Bench

Advocate : K.P. Singh, for the Appellant; Sandeep Sharma and Monika Singh,
for the Respondent

Judgement

Sanjiv Khanna, J.—In the impugned order dated 18th January, 2007, the learned Financial Commissioner has held that the order passed by Settlement Officer (Consolidation) is appealable before the Deputy Commissioner (North West), who has been delegated the said power of hearing and the appeal is not maintainable before the Financial Commissioner. In this connection, learned Financial Commissioner has relied upon notification dated 18th July, 2006.

2. Learned Counsel for the petitioner states that he will be satisfied in case directions are issued permitting the petitioner to file an appeal before the Deputy Commissioner (North West) and his appeal should not be dismissed on the ground of limitation.

3. Learned Counsel appearing for respondent No. 2 has relied upon the said notification dated 18th July, 2006 and has referred to Section 41 of the East Punjab Holding (Consolidation and Prevention of Fragmentation) Act, 1948, which empowers the Chief Commissioner/Lt. Governor to issue notification and delegate any of his powers and functions under this Act officers either by name or by designation.

4. The petitioner had preferred an appeal before the Financial Commissioner in 2002, which is before the notification dated 18th July, 2006 was issued u/s 41 of the aforesaid Act. It is, therefore, apparent that when the appeal was filed by the petitioner before the Financial Commissioner in the year 2002, notification dated 18th July, 2006 issued u/s 41(1) of the Act delegating the powers to specific Deputy Commissioners was not issued. Even if it is presumed that after notification dated 18th July, 2006, the Financial Commissioner could not have adjudicated or decided the pending appeals, he should have transferred the appeals, which were filed and listed before him before the concerned Deputy Commissioner rather than dismissing appeals on the ground that they are not maintainable. Once the Financial Commissioner came to the conclusion that the appeal u/s 21(4) of the Act was not maintainable before him in view of the subsequent notification dated 18th July, 2006, he should not have dismissed the appeal but the parties should have been relegated to appear before the concerned Deputy Commissioner or liberty should have been granted to the petitioner to approach the Deputy Commissioner (North West).

5. In the aforesaid circumstances, the writ petition filed by the petitioner is partly allowed. The petitioner is given liberty to file an appeal before the Deputy Commissioner (North West) raising grounds as were filed before the Financial Commissioner within a period of three weeks from today. If any such appeal is filed, the same will not be treated as barred by limitation and will be disposed of on merits.

Dasti.