
(1984) 04 SHI CK 0003

In the High Court Of Himachal Pradesh

Case No : Civil Writ Petition No. 82 of 1971

Kunkhun

APPELLANT

Vs

State of H.P. and Others

RESPONDENT

Date of Decision : 07-04-1984

Acts Referred:

Punjab Land Revenue Act, 1887 — Section 150, 22
Punjab Land Revenue Rules, 1956 — Rule 31, 32, 33, 34, 35

Citation : (1984) 13 ILR HP 172

Hon'ble Judges : P.D. Desai, C.J

Bench : Single Bench

Advocate : R.K. Sharma, for the Appellant; L.S. Panta, D.A.G., for the Respondent

Final Decision : Allowed

Judgement

P.D. Desai, C.J.—The Petitioner was served with a notice dated March 5, 1970, (Annexure A) calling upon him to show cause why he should not be ejected from a piece or parcel of Government land specified in the said notice on the ground that he was in unauthorised possession thereof. The Petitioner showed cause by his reply dated December 10, 1970, (Annexure B) in which he contested the proposed action on several grounds, legal as well as factual. The competent authority passed an order on May 29, 1971, (Annexure C) which reads as follows:

The encroacher is present with Counsel. Arguments heard. It is found that the encroacher is in illicit possession of Government land. Hence the encroacher is ordered to vacate the land within 15 days failing which ejectment warrant be issued: The compliance of ejectment warrant should be made by 30th June, 1971.

2. The present writ petition is directed against the aforesaid order.

3. The proceedings for ejection are purported to have been taken in this case u/s

150 of the Punjab Land Revenue Act, 1887. The said section reads as follows:

Prevention of encroachment on common lands:

(1) Where land which has been reserved for the common purposes of the co-sharers therein has been encroached on by any co-sharer, a Revenue Officer may, on the application of any other co-sharer, eject the encroaching co-sharer from the land, and by order proclaimed in manner mentioned in Section 22, forbid repetition of the encroachment.

(2) The proceedings of the Revenue Officer under Sub-section (1) shall be subject to any decree or order which may be subsequently passed by any Court of competent jurisdiction.

4. Rules 31 to 44 of the Punjab Land Revenue Rules (hereinafter referred as the Rules) are admittedly attracted to proceedings u/s 150 of the Act.

5. Section 150 read with the relevant Rules clearly indicates that the proceeding under the said section is a quasi-judicial proceeding. It is settled law that a quasi-judicial or judicial authority is under an obligation to give reasons in support of its conclusions because it is reasons which rule out the element of arbitrariness. In a proceeding of such nature, therefore, it is the essential requirement of administrative law that the final order which comes to be made is a speaking order, that is to say, an order which is supported by reasons. Besides, Rule 41 clearly provides that in every proceeding in which an order is passed on merits after inquiry, the Revenue Officer making the order shall record a brief statement of the reasons on which it is founded. Under the circumstances, there is an additional statutory requirement to record reasons in the instant case.

6. Now, the impugned decision is not supported by reasons. It merely records the ultimate conclusion but does not disclose the process of reasoning by which such conclusion was arrived at. Although, as earlier pointed out, in the reply to the show cause notice, the Petitioner had raised several contentions, legal and factual, none of them has been dealt with. For the foregoing reasons, without entering into any other questions and without pronouncing upon the validity or otherwise of the other contentions raised herein, the impugned decision requires to be set aside on the short ground that it is not in conformity with the requirement of law.

7. The writ petition accordingly succeeds and it is allowed. The impugned decision (Annexure C) is quashed and set aside, the case is remanded to the authority which issued the show cause notice (Annexure A) for fresh disposal in accordance with law and in light of the observations made in this judgment. Rule is made absolute accordingly. No order as to costs.