

(2011) 03 SHI CK 0201
In the High Court Of Himachal Pradesh
Case No : CWP No. 12 of 2007

Manohar Lal

APPELLANT

Vs

State of H.P. and Others

RESPONDENT

Date of Decision : 31-03-2011

Acts Referred:

Himachal Pradesh Holdings (Consolidation and Prevention of Fragmentation) Act, 1971
— Section 15

Citation : (2011) 03 SHI CK 0201

Hon'ble Judges : V.K. Sharma, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

V.K. Sharma, J.—The petition (amended) has been filed on the following substantive prayers:

1. To direct the Respondents to implement the notification dated 16th May 1998.
2. To direct the Respondents to cancel the consolidation work held in the year 1986-87.
3. that the corrigendum dated 11/7/07 whereby the name of the revenue estate Ghandoli has been deleted from the list of Notification 1/4/1998 may very kindly be quashed and set aside in the interest of justice.
2. It shall be pertinent to notice at the very outset that the date of Notification in prayer one has been wrongly mentioned as 16th May, 1998, instead of 01.04.1998, which error stands corrected in prayer three.
3. In reply to the amended petition, the Respondents have taken the following stand vide paras 3 to 7:
3. Admitted to the extent that consolidation proceedings were started in this village in the year 1987-88. The record prepared by the consolidation had been handed over to the Revenue Department in the year 1990-91 after completion of

consolidation work.

4. In reply to this para it is submitted that the Petitioner was joint owner in possession of property measuring 00-51-75 hectare bearing khata/Khatauni No. 43/73 as per Missal Haquiat for the year 2003-04. It is pertinent to mention here that Shri Dharam Chand s/o. late Shri Gian Chand and others r/o village Ghandoli filed a writ petition against the order of the Director, Consolidation of Holdings, H.P. passed in revision petition No. 153/99 dated 6.11.2004 before the Hon'ble high Court of H.P. and same was dismissed by the Hon'ble High Court on 15.5.2006.

5. Admitted to the extent that some of right holders of the village Ghandoli Mauja Tappa Galore Tehsil Nadaun District Hamirpur submitted presentations against the consolidation proceedings which was sent to Settlement Officer, Consolidation of Holdings, Hamirpur who reported that a few landowners were aggrieved of the consolidation proceedings but majority of owners satisfied with the consolidation operations, so the representation was rejected accordingly.

6. In reply to this para it is submitted that consolidation operations were started in this village in the year 1987-88 and the record was handed over to the revenue department in the year 1990-91. On the basis of this record, settlement operations were also completed in the year 2003-04. But inadvertently notification was issued canceling the consolidation proceedings. This department has also requested to the F.C.-cum-Secretary (Revenue) to the Govt. of H.P. vide this office letter No. Raj. Bhu-A(P)22 Ghandoli Ropa-Nadaun, Hamirpur/98-4600 dated 20.11.2006 to issue the corrigendum with respect to the said village. The Government has issued corrigendum on dated 11.7.2007 (copy attached as annexure).

7. Admitted to the extent that Shri Dharam Chand s/o Gian Chand made a representation, which was sent to the Settlement Officer, Consolidation of Holdings, Hamirpur, for detailed report. Settlement Officer, Consolidation of Holdings, Hamirpur, after hearing inquiry submitted a detailed report and made it clear in his report that except some of right-holders of this village, majority of the right-holders have possessed the land allotted to them during consolidation operations. Further Settlement Officers, Consolidation of Holdings, mentioned in his report that after consolidation, the settlement operations were completed in the year 2003-04 and the record of Settlement had also been handed over to the revenue department. In this regard, this department requested the Financial Commissioner-cum-Secretary (Revenue) vide this office letter No. Raj. Bhu. A (P)22-4600 dated 20.11.2006 to issues corrigendum to delete this village from the list of notification operations and settlement operation do not suffer on flimsy grounds. The Government has issued corrigendum on dated 11.7.2007 (copy attached).

4. On 16.12.2010, the following order was passed in this matter:

Notice of the writ petition be issued to all the right holders in view of

development, which has taken place during the pendency of writ petition, viz the village of the Petitioner has been excluded from the notification, cancelling the notification for consolidation. Petitioner shall make an application for the purpose, naming therein all the right holders of the village and shall also submit a petition of his grievance, including therein also the developments, which have taken place, after the institution of the petition. Three weeks time is given for filing such petition and taking steps for issuance of notice. Notice will go with copies of amended petition to each and every right holder. List of names and particulars of right holders together with PF be filed within a week.

List on 24.2.2011.

5. In terms of the above order dated 16.12.2010, out of 38 right holders all except the right holder at serial No. 36 were served, but did not appear. It being so, service of the right holder at serial No. 36 is dispensed with as the same would not serve any fruitful purpose.

6. Vide Notification dated 01.04.1998, Annexure P/2, consolidation proceedings in as many as 58 villages, including that of the Petitioner, namely, village Ghandoli, which finds mention at serial No. 55 of the Notification, were cancelled. The Petitioner is seeking revival of the said Notification dated 01.04.1998 insofar as the same relates to village Ghandoli. However, the fact remains that vide corrigendum dated 11th July, 2007, Annexure P-5, with the amended petition, which is extracted below, village Ghandoli has been ordered to be deleted from the purview of the aforesaid Notification dated 01.04.1998, Annexure P/2:

Government of Himachal Pradesh Revenue Department No. Rev.B.F(8)-1/96, Dated: Shimla-2, 11 July, 2007 "CORRENGIDUM" Vide this Department notification of even No. dated 1-4-1998, in the list of villages mentioned therein, the village "Ghandoli" was wrongly included at Sr. No. 55 in the list of villages in which the consolidation proceedings were cancelled, however, the consolidation record after completion was handed over to Mohal in the year 1990-91 and thereafter, the settlement operation have also been got completed in the year 2003-04. therefore, keeping in view the above circumstances, the Governor of H.P. is pleased to order the deletion of Village "Ghandoli" shown at Sr. No. 55 from the list of villages issued vide notification of even No. dated 1.4.1998. By order (Prem Kumar) FC-cum-Secretary (Revenue) to the Govt. of Himachal Pradesh Shimla - 2 11-7-2007

7. Admittedly, consolidation proceedings were carried out in village Ghandoli in the year 1987-1988. These were cancelled vide Notification dated 01.04.1998, Annexure P/2, after about ten years. Thereafter, representation dated 23rd October, 2006, Annexure P/4, was moved by the Petitioner alongwith other right holders after lapse of more than eight years. The petition was filed in December, 2006. No explanation, what to say of a reasonable explanation for the delay is coming forth. Furthermore, it is apparent from corrigendum dated 11th July, 2007, Annexure P-5, that after completion of consolidation proceedings in village

Ghandoli settlement operations have also taken place in the village in the year 2003-2004. It is further apparent from the corrigendum that village Ghandoli was wrongly included in the list in which the consolidation proceedings were cancelled vide Notification dated 01.04.1998, Annexure P/2, and in order to rectify the mistake the corrigendum deleting village Ghandoli from the operation of the said Notification was issued.

8. Consolidation proceedings are undertaken to prevent fragmentation of holdings and to consolidate the same so as to ensure maximum productivity. Similarly, settlement operations are undertaken to correct and up-date land records. It is a matter of common knowledge that both these operations are gigantic in nature.

9. In the present case, the consolidation proceedings were carried out in the year 1987-1988. Thereafter, settlement operations were undertaken in the year 2003-2004. We are already in the year 2011. In the intervening period lot many changes in ownership of land by way of sales and other dispositions must have taken place. In such circumstances, to nullify such operations at this belated stage would result in immense hardship to the right holders which shall not be in their interest.

10. The learned Counsel for the Petitioner submits that the corrigendum, Annexure P-5, was issued after nine years from the original Notification dated 01.04.1998, Annexure P/2. Suffice it to say that this fact has already been noticed in this judgment hereinabove and would not go to advance the case of the Petitioner in any manner, whatsoever, and rather is detrimental to his case. Secondly, it is also submitted that after the consolidation operations were completed, in the year 1987-1988, no notification indicating that the operations stood completed was issued in terms of Section 15 of the Himachal Pradesh Holdings (Consolidation and Prevention of Fragmentation) Act, 1971 (in short "the Act"). Issuance of Notification u/s 15 of the Act is neither mandatory in nature nor is of much consequence in the peculiar facts and circumstances of the present case viz. lapse of more than two decades and the settlement operations having been carried out in the village in the interregnum.

11. In view of the above, the petition being devoid of any merit is dismissed.

12. The petition stands disposed of in the above terms, so also pending CMP(s), if any.