

(2011) 11 SHI CK 0255
In the High Court Of Himachal Pradesh
Case No : CWP No. 9804 of 2011-A

Rai Singh

APPELLANT

Vs

State of H.P. and others

RESPONDENT

Date of Decision : 18-11-2011

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Citation : (2011) 11 SHI CK 0255

Hon'ble Judges : V.K. Ahuja, J;Kurian Joseph, J

Bench : Division Bench

Judgement

Justice V.K. Ahuja, J.—This is a writ petition filed by the petitioner under Articles 226/227 of the Constitution of India, for quashing of the order passed by the Divisional Commissioner, Kangra Division at Dharamshala, dated 23.6.2011 and that of Financial Commissioner (Appeals), dated 18.10.2011 in revision petition.

2. Briefly stated, the facts of the case are that an application for correction of Karukans of Khasra numbers as alleged in the petition was pending before the Settlement Collector. The said application was allowed by the Settlement Collector, Kangra at Dharamshala. An appeal was preferred to the Divisional Commissioner, who remanded the case to the Settlement Collector for deciding the matter afresh after affording opportunity of being heard to the parties. The said order was upheld by the Financial Commissioner vide his order dated 18.10.2011.

3. The present petition has been filed by the petitioner for quashing of the orders passed by the Divisional Commissioner and the Financial Commissioner and for upholding the order passed by the Settlement Collector.

4. Heard.

5. It is clear from perusal of the impugned orders passed by the Divisional Commissioner and the Financial Commissioner that they have remanded the case back to the Settlement Collector for deciding the matter afresh after affording

opportunity of being heard to the parties. The learned counsel for the petitioner has submitted that the parties were present before the Settlement Collector and thus an opportunity was granted to them to make submissions and, therefore, the impugned orders are liable to be set aside. There is observation of the Divisional Commissioner in the impugned order that the appellant Ravinder Singh was not afforded an opportunity of being heard by the Settlement Collector. In view of this observation, he has remanded the case to the Settlement Collector for deciding the matter afresh after giving an opportunity of being heard to the parties. The order passed by the Settlement Collector thus suggests about the presence of the parties, but it does not lead to the conclusion that an opportunity was afforded to the parties of being heard. The impugned orders, therefore, do not suffer from any illegality and this Court is not sitting in appeal, but is exercising the writ jurisdiction, which can be exercised only if it was proved that the impugned orders suffers from illegality, which is not so in the present case.

6. In view of the above discussion, we accordingly hold that there is not merit in the petition filed by the petitioner and the same is accordingly dismissed, so also the pending miscellaneous application(s), if any. However, keeping in view the submissions and the fact that the case was pending before the Settlement Collector since long, the Settlement Collector is directed to dispose of the case as far as possible within three months from the date of first hearing. He shall issue a notice to the parties and proceed with the case in accordance with law.