
(2004) 08 P&H CK 0085
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 981 of 1986

Ram Kishan and another

APPELLANT

Vs

Additional Director, Consolidation of Holdings, Punjab and others

RESPONDENT

Date of Decision : 05-08-2004

Acts Referred:

Citation : (2005) 2 LJR 629 : (2004) 4 RCR(Civil) 493

Hon'ble Judges : Mehtab S.Gill, J

Advocate : Shri Ashok Jindal, Advocate. Shri B.S. Baath, A.A.G., Punjab. For the Respondent Nos. 2 and 3, Shri N.S. Rapri, Advocate., Advocates for appearing Parties

Judgement

Mehtab S. Gill, J.

1. In this petition, the petitioners have prayed for issuing a writ in the nature of certiorari for quashing order dated 20.12.1985 (Annexure P3).
2. Consolidation took place in village Garhshankar in the year 1973/74. Petitioners and respondent Nos. 2 and 3 were cosharers in a piece of land. In the scheme one Karam wide path was provided to the plot to whom there was no path and secondly the person who claimed land inside the abadi and his double area would be taken from his land outside the abadi. Accordingly land was allotted to the petitioners and respondent Nos. 2 and 3. Till 1977, no objection or appeal was filed by respondent Nos. 2 and 3. On 23.11.1977 and 2.3.1977, they filed petitions under Section 42 of the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act 1948, (hereinafter called 'the Act') and order of the Assistant Consolidation Officer was challenged. The petitions of respondents were dismissed vide order dated 25.5.1978 (Annexure P1). After a lapse of about 7 years, respondents filed another application under Section 42 of the Act, which was decided on 20.12.1985 (Annexure P3).
3. Notice of motion was issued.

4. Respondent Nos. 2 and 3, in the reply have stated that all the cosharers have not been impleaded as parties. Respondent No. 3 Phuman Singh is the legal heir of Sita Ram. Besides Phuman Singh, Janki Devi widow of Sita Ram, Kamla Devi and Krishna Devi, daughters of Sita Ram, Parmodh Singh and Bikram Singh, other sons of Sita Ram are alive and have inherited the estate of Sita Ram. They are necessary parties. It has been further stated that the petitioners and respondent Nos. 2 and 3 were cosharers of land bearing Khewat No. 26 earlier. A path was provided to all the plots and persons who claimed land inside the abadi, land outside the abadi the persons would get double area of path outside the abadi.

5. I have heard the learned counsel for the petitioners and learned counsel for the respondents. Learned counsel for the petitioners has stated that order dated 20.12.1985 (Annexure P3) cannot be sustained as the Additional Director does not have the power of review. He has further stated that vide order dated 25.5.1978 (Annexure P1), the Additional Director has concluded that the petitions are time barred. No appeal has been filed against this order. Respondent No. 3 Phuman Singh is not the only legal heir of respondent No. 2 but Janki Devi, Kamla Devi and Krishna Devi daughters of Sita Ram are also the legal heirs of Sita Ram. Parmodh Singh and Bikram Singh, sons of Sita Ram have not been impleaded as parties. No replication has been filed by the petitioners as to why they have not made the legal heirs of Sita Ram as parties.

6. Learned counsel for the petitioners has rightly stated that the Additional Director does not have the power to review.

7. On going through the order dated 25.5.1978 (Annexure P1), it comes out to be a very cryptic order as no reasons have been given as to why the petition is time barred.

8. Order dated 25.5.1978 (Annexure P1) and order dated 20.12.1985 (Annexure P3) are set aside and Additional Director (Consolidation) is directed to re examine the matter afresh taking into consideration the aspect whether the applications on the date of filing before the Additional Director were time barred or not, and also whether all the effected parties were made a party or not.

Parties are directed to appear before the Additional Director on 8.9.2004.

With the above direction, petition is disposed of.