
(2006) 12 SHI CK 0017
In the High Court Of Himachal Pradesh
Case No : C.W.P. No. 994 of 2006

Ram Lok and Another

APPELLANT

Vs

State of H.P. and Others

RESPONDENT

Date of Decision : 08-12-2006

Acts Referred:

Himachal Pradesh Tenancy and Land Reforms Act, 1972 — Section 100, 65
Limitation Act, 1963 — Article 56

Citation : (2006) 3 ShimLC 450

Hon'ble Judges : S.S. Thakur, J;Deepak Gupta, J

Bench : Division Bench

Advocate : Ajay Sharma, for the Appellant; M.S. Chandel, General and Ram Murti Bisht, D.A.G., for the Respondent

Final Decision : Dismissed

Judgement

S.S. Thakur, J.—In this writ, the Petitioners have sought the relief of quashing the order dated 1.3.1977 passed by the Land Reforms Officer (LRO) and also the order dated 4.4.2006 (Annexure-P3) passed by the Respondent No. 1 and alternatively prayed for remanding the matter back to Respondent No. 1 after setting aside order Annexure-P3, for deciding the matter afresh on merits after condoning the delay.

2. The brief facts may be stated thus:

3. The Petitioners were admittedly the tenants under the Respondent Nos. 2 to 20. On coming into force of the Himachal Pradesh Tenancy and Land Reforms Act, (hereinafter referred to as the "Act"), according to them, they were to be conferred the proprietary rights but the Landlords filed LR-V applications for resuming the tenancy land but their applications were dismissed on the ground that the landlords were having more land, in their ownership and possession, than permissible under the law.

4. This order was assailed by the landlord-Respondents before the Collector

where they succeeded and the order of dismissal was set-aside and the case was remanded back to the Land Reforms Officer for decision afresh, who vide his order dated 1-3-1977 allowed the applications of the landlords for resumption of the land which, allegedly was contrary to the provisions of the "Act".

5. The said order, dated 1-3-1977, was not challenged thereafter but the Petitioners had opted to file civil suit for declaration, in the year 1986, i.e. after about 9 years, in the Court of Sub Judge to the effect that they have acquired the proprietary rights of the tenancy land and that the entries in the name of the Respondent-owners were wrong. The Petitioners lost that too before the trial Court and subsequently in the first Appellate Court. Even the Regular Second Appeal No. 215 of 2001 was dismissed on 1.8.2001, on the ground that the civil Court had no jurisdiction in the matter.

6. It was thereafter the Petitioners had filed the revision petition before the Financial Commissioner (Appeals), to the Government of Himachal Pradesh, under Sections 65 and 100 of the H.P. Tenancy and Land Reforms Act against the original order of the Land Reforms Officer, Una dated 1-3-1977 passed in LR-V applications, bearing numbers 1306 to 1310 along with an application for condoning the delay in filing the revision petition.

7. Vide Annexure-P3, the Financial Commissioner, aforesaid, did not find favour with the contention raised by the Petitioners. Thus, it was dismissed on the short ground that the order of the Land Reforms Officer dated 1-3-1977 is being challenged through this revision petition after a period of 28 years.

8. Against the aforesaid background, Shri Ajay Sharma, Advocate, appearing for the Petitioners argued that powers of the Financial Commissioner u/s 65 of the Act to call for the record suo moio or at the instance of an aggrieved party, "at any time", of any case pending before or disposed of by Revenue Officer or the Revenue Court subordinate to him while exercising such powers, the point of limitation will not come in his way, as there has been no statutory bar more specifically when important question of law is involved. To buttress his arguments, he has cited Amar Nath and Anr. v. State of H.P. 2002 (1) Sim.LC 236 , and also laid his stress on Divisional Manager, Plantation Division, Andaman and Nicobar Islands Vs. Munnu Barrick and Others, Shri Sharma further ventilated that this case also involved the determination of serious question of law and therefore, the delay should have been condoned and the case of the Petitioners could not have been thrown out on the question of limitation alone.

9. We have thoughtfully examined the contentions raised by the learned Counsel for the Petitioners vis-a-vis the facts in hand.

The perusal of the record reveals that the Petitioners did not explain before the Financial Commissioner (Appeals) in their application for condoning the delay which was accompanied with the revision, as to what prevented the Petitioners to take legal recourse to law with effect from 1.3.1977 when the Land Reforms Officer had allowed the applications of the landlords till 1986 when the civil suit

was filed. The Regular Second Appeal of the Petitioners was dismissed in the year 2001, as aforesaid but the revision petition before the Financial Commissioner was filed on 18.8.2004. Though the Petitioners have averred in the application seeking the condonation of delay that no steps were taken by them prior to 1986 for assailing the order dated 1.3.1977 but the Petitioners even did not bother to explain the delay of about three years, i.e. with effect from 2001 to 2004. We only find a reference in the application to the effect that the Petitioners had been pursuing the matter with effect from 1986 till 2001 in the Civil Courts. There is not even a single reference in the said application as to what was the cause for delay in filing the revision petition before the Financial Commissioner w.e.f. the year 2001 to 2004. In fact there has been a delay of about 28 years, in filing the revision petition before the Financial Commissioner from the order impugned. We are not in agreement with the learned Counsel for the Petitioners that after such a long time, it was within the powers of the Financial Commissioner (Appeals) to condone the delay only on the point that an important question of law was involved. In fact, the Hon'ble Full Bench in Percy Chauhan's case (I.L.R. 1979 H.P. 35) had dealt with the suo moto powers of review or revision, where no limitation was prescribed under the Nautor Rules within which it could be exercised. It was held that the width and amplitude of these powers vested in the authorities under the said rules are very wide and striking thereby making the allottee insecure and therefore it should be exercised in a "reasonable" time with a view to test the legality and propriety of order impugned.

10. In *Mangheru v. State of H.P. and Ors.* 1981 Sim.L.C., the Hon'ble Full Bench inter alia reconsidered the above point and held that peculiar facts and circumstances of each case should determine a "reasonable time". However, there is no time for exercising the revisional powers or suo moto powers, if on facts, it is a case of deception or fraud which was successfully kept concealed over a sufficient long period of time. However, once the fraud is detected, the action is required to be taken within a "reasonable time" thereafter and further that Article 56 of the Limitation Act lays down a limitation of three years from the date of knowledge of fraud and it will be reasonable to lay down that ordinarily within a period of three years from the date of knowledge of fraud, suo moto powers can be exercised. The facts stated in 2005 SCC 237, cited by the learned Counsel for the Petitioners are different from the present one. There the delay was only of about slightly more than 3 months but here it is of 28 years.

11. Even in *State of H.P. v. Rajkumar Brijender Singh* AIR 2004 S.C. 3218, it was held by the Hon'ble Supreme Court that the words "at any time" to exercise such powers do not mean that there would be no time limit or it is in infinity. All that means is that such powers should be exercised within a "reasonable time". No fixed period of limitation may be laid but unreasonable delay in exercise of the power would tend to undo the things which have attained finality. Thus the powers exercised by the Financial Commissioner after a period of 15 years when no special circumstances were stated, were held to be vitiated.

12. Applying the above law, we find that the order dated 1-3-1977 passed by the Land Reforms Officer had attained finality. It was sought to be challenged after about 28 years to unsettle the settled position without any special circumstances, like, fraud or deception or putting further a reasonable explanation for assailing the said order after such a long time which cannot be said to be reasonable. Hence we do not find any reason to interfere in the order Annexure-P3 passed by the Financial Commissioner (Appeals). As such the petition is dismissed with no order as to costs.

CMPs No. 1565, 1566 & 1567 of 2006.

In view of the dismissal of the main writ petition, these applications do not survive, hence dismissed.