(1968) 03 P&H CK 0005

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ No. 1326 of 1965

Ran Singh APPELLANT

Vs

State of Punjab and others RESPONDENT

Date of Decision : 01-03-1968

Acts Referred:

East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948 — Section 21(4)

Citation : (1968) 03 P&H CK 0005

Hon'ble Judges : Shamsher Bahadur, J

Bench : Single Bench

Advocate : M.L. Sethi, for the Appellant; P.S. Daulta with Mr. A.S. Nehra, for the Respondent

Judgement

Shamsher Bahadur, J.—This is a writ petition of Ran Singh directed against the order of the Additional Director, Consolidation of Holdings, passed on 29th of January, 1965, declining his prayer for fitting him in his majority area in Khasra No. 2162.

2. The consolidation operations in village Rohera of Kaithal tehsil have been going on since 1960 and the scheme as framed on 24th of February, 1960 was confirmed on 9th of April, 1960. The petitioner had asserted that the valuation of 17,14 Bighas in Khasra No. 2162 had been fixed in the scheme at the rate of 12 annas and an area of about 4 Bighas subsequently came to be valued at 4 annas, the resultant effect being that he was deprived of his right to be fitted in Kbasra No. 2162. The petitioner complained about the manipulation which had been made in the valuation before the Consolidation officer who declined to interfere.

An appeal before the Settlement Officer also failed and in his order passed on 16th of February, 1961, he observed that he had no jurisdiction to revise the valuation. The Assistant Director, before whom an appeal was made under sub-section 21(4) of the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act dismissed it on the same ground, it having been observed by him-

The only contention of the appellant is that Khasra No. 2162 has been under-valued. This objection relates to the scheme and is not competent u/s 21(4). The appellant is advised to apply u/s 42. In case the valuation of this Khasra number is changed than the appellant will be entitled to readjustment of his Kurrah. The appeal being incompetent is, therefore, dismissed.

The petitioner met with success before the Additional Director who heard his petition u/s 42 of the Act and in the order of 27th of June, 1963 he observed that on an elimination of the contention of the petitioner he found substance in it and suspected that mischief had been done. He, however, wanted this view to be con firmed and therefore, directed "the Settlement Officer, Consolidation of Holdings to get the site inspected and a thorough checkup be made whether the area now evaluated at-/4/-is really of the value of /4/- or of the value of -/12/-. He should give a clear report whether 17.14 Bighas are of the value of -/12/- or 13 14 Bighas are of the value of /12/-. The reasons for decreasing the area of the value of /12/- be also stated."

3. When the matter was re-examined in the light of the directions given by the Additional Director on 27th of June, 1963, it was reported by the Consolidation Officer on 2nd of September, 1964 in report Exhibit P.B. that the valuation of Khasra No. 2162 should be as follows:

Area

Valuation

17 14 Bighas

-/12/-

1.11 Bighas

-/8-

0.12 Bigha

-/4/-

The report Exhibit P.B. came for disposal before the Additional Director again but this time before Mr. Jaspal Singh who hid replaced the previous Additional Director. It seems Mr. Jaspal Singh was influenced by the consideration that the petition u/s 42 was barred by time. In any event, he did not consider that the valuation needed revision at that stage.

4. To deal with the question of limitation first. Under rule 18 of the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Rules, a petition u/s 42 has to be made within six months "of the date of the order against which it is filed ''. Now, the order of the Assistant Director who had dismissed the appeal of the petitioner and had advised him to resort to remedy u/s 42 was passed on

20th of February, 1962. The application u/s 42 was made on 8th of August, 1962 and this would be clearly within six months from the date of the Assistant Director''s order Prima facie, it appears to me that no question of limitation arose and none was raised when the petition came for disposal before the Additional Director in the first instance on 27th of June, 1963. It has been settled by Bench decisions of this Court that if the question of limitation is not raised and the Additional Director is not made aware of it, the question cannot be agitated again. Mr. Jaspal Singh was influenced by the earlier report which had been made by the Settlement Officer in 1959 in which it was said that only 13 14 Bighas was of 12 annas value. This observation of the Settlement Officer was before the Additional Director when he detected mischief in the alteration that had been made in the scheme itself. Mr. Jaspal Singh has not dealt with the fresh valuation which had been recommended in the report Exhibit P.B. of 2nd of September, 1964. u/s 42 of the Act, it is open to the State Government to pass any order at any time for the purpose of satisfying itself "as to the legality or propriety of any order passed, scheme prepared or confirmed or repartition made by any officer. " It seems plain that the question of valuation embodied in the scheme can be suitably revised in an order made by the Additional Director as a representative of the State Government u/s 42 of the Act. It seems that the Additional Director Mr. Jaspal Singh has wholly misdirected himself and the order passed by him on 29 of January, I9S5, has therefore, to be quashed.

The Additional Director of Haryana would now give a fresh decision on the point which has been raised by the petitioner in his petition of 8th of August, 1961, and will dispose it of in accordance with law, and as expeditiously as he can. In the circumstances I would make no order as to costs.

