
(2012) 04 DEL CK 0105
In the Delhi High Court
Case No : Writ Petition (C) 773 of 1995

R.N. Sahni and Another

APPELLANT

Vs

The Financial Commissioner and Others

RESPONDENT

Date of Decision : 10-04-2012

Acts Referred:

Citation : (2012) 04 DEL CK 0105

Hon'ble Judges : Sunil Gaur, J

Bench : Single Bench

Advocate : N.S. Vashisht and Mr. Vishal Singh, for the Appellant; Sana Ansari, Advocate for Ms. Zubeda Begum, Advocate for respondent No. 1 and 2, Mr. Davinder Verma, Advocate, for the Respondent

Final Decision : Dismissed

Judgement

Sunil Gaur

1. Aggrieved by non-reservation of their farm house sanctioned in pre-consolidation Khasra No. 763/2, 765/1 and 766, falling in post-consolidation Khasra No. 33/2 & 33/9, petitioners had preferred a statutory revision before the Financial Commissioner, Delhi in the year 1994 raising challenge to the repartition carried in the revenue estate of Village- Kapasehra, Delhi during the year 1988 was raised without filing objections to the Draft Scheme, prepared by the Consolidation Officer in the year 1987. Financial Commissioner, Delhi, vide impugned order of 6th February, 1995, has dismissed petitioners' revision petition holding that it is borne out from the copy of karvai register that petitioners have been allotted post-consolidation area as per their recorded demand, that is to say, there was no deficiency in the allotment of the land to the petitioners in lieu of their pre-consolidation holdings and if, 1 bigha and 18 biswas of land in Khasra No.33/2 & 33/9 is added to the khata of the petitioners, it would lead to excess allotment to the petitioners, which is not permissible, as it is not the case of the petitioners that some other land of theirs is to be withdrawn from them as the result of their aforesaid demand. Regarding

reservation of" aforesaid land (hereinafter referred to as the "subject land") of the petitioners", it stands noted in the impugned order that this was to be done at the time of preparation of Scheme of Consolidation and since the petitioners had not filed any objections to the draft list, therefore, now belatedly petitioners cannot claim aforesaid reservation which would lead to modification/ amendment of the confirmed scheme of consolidation, which is impermissible.

2. The finding returned in the impugned order against the petitioners on the aspect of afore-claimed reservation, is that since there is no construction on 5 bighas and 15 biswas of land purchased by the first petitioners from Bhumidar - M/s Poddar Constructions, therefore, no reservation can be claimed by the petitioners in respect thereof.

3. Aforesaid findings in the impugned order, are assailed by learned counsel for the petitioners by urging that the first petitioner had purchased the lands along with the farm house prior to the start of consolidation work and did not have an inkling that his land could be allotted to third party, as the first petitioner was hopeful that his farm house must have been reserved during consolidation, as the all the farm houses built on different lands in this village were reserved during consolidation and that first petitioner had come to know about the reallocation of the subject land to third party on 20th August, 1994 and promptly statutory revision petition was preferred by the petitioners.

4. To test the aforesaid contention of learned counsel for the petitioners, writ petition filed by the petitioners to assail the impugned order, was perused and thereupon, it became evident that the petitioners have nowhere disclosed that how and from where petitioners had come to know in the year 1994 about the reallocation of the subject land to the third respondent, who in turn had sold it to the fourth respondent and mutation in respect thereof was sanctioned in September, 1993. It is not the case of the petitioners that they had never visited the subject land during the consolidation proceedings and therefore they were oblivious of the consolidation proceedings.

5. To assail the finding in the impugned order regarding there-being no construction on the subject land, it is asserted by the petitioners that there was construction on the subject land much prior to the start of consolidation work and in support thereof "Occupancy Certificate" of 15th November, 1984 purportedly issued by the MCD indicating construction upon the pre-consolidation Khasra numbers in question is relied upon but it is nowhere stated in this petition that the said "Occupancy Certificate" was produced before the Financial Commissioner, Delhi. In any case, order of 23rd April, 1993 disposing of the objections pertaining to the subject land as well, crystallizing the rights of the third parties in respect of the subject land, has been already implemented and there is no challenge to the aforesaid order of 23rd April, 1993 by the petitioners. In view thereof, impugned order dismissing revision petition of the petitioners deserves to be maintained. Consequently, this petition is dismissed, with no order as to cost.