
(1966) 03 P&H CK 0013
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ No. 1051 of 1965

Sadhu Ram and Others

APPELLANT

Vs

The State of Punjab and Others

RESPONDENT

Date of Decision : 04-03-1966

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1966) 03 P&H CK 0013

Hon'ble Judges : Shamsheer Bahadur, J

Bench : Single Bench

Advocate : Jinendra Kumar Sharma, for the Appellant; J.N. Kaushal, Advocate General with Mr. M.R. Agnihotri, for the State and Mr. G.C. Mittal, for Respondents Nos. 5 to 41, for the Respondent

Final Decision : Dismissed

Judgement

Shamsheer Bahadur, J.—This is a petition of Sadhu Ram and 39 other right holders of village Zainpur Jattan, Tehsil Thanesar to challenge under Articles 226 and 227 of the Constitution of India various aspects of consolidation operations which were initiated in the village in consequence of notification No. 9191-A of 25th June, 1982.

2. In the first place it is submitted that the consolidation operations from the very inception are bad because no enquiry was made regarding the necessity of starting consolidation proceedings soon after the previous consolidation which was held only a few years ago. It is contended that the State Government has not been able to establish any fragmentation of holdings having taken place after the previous consolidation. These facts are denied and in the written statement of the State it is asserted that due consideration was given to the objective of better cultivation of lands which is the governing factor in issuing a preliminary notification u/s 14(1) of the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act. It is to be observed that the State Government issues a notification under this provision either on its own motion or on an application

made in this behalf for the purpose of "better cultivation of lands" in the estate where it is proposed to take the proceedings. It is not incumbent on the State Government to make an enquiry before issuing the notification as has been contended for by the learned counsel. As held by a Division Bench of this Court in *Jagir Singh v. The State of Punjab* (1963) 65 P.L.R. 754, the State Government making a notification under sub-section (1) of section 14 of the East Punjab Holdings Consolidation and Prevention of Fragmentation) Act, acts in a purely administrative capacity, the question of its being actuated by mala fides does not arise." There is thus no force in this point which has been raised on behalf of the petitioners as the State Government's decision to issue a notification u/s 14(1) of the Act for consolidation of an estate is in no way defective or open to challenge.

3. In pursuance of this notification issued on 25th June, 1962 a scheme was framed for consolidation on 31st August, 1962 and the broad features of the contemplated scheme were approved by the Consolidation Advisory Committee. The challenge in this petition is mainly at the valuation of the holdings and few other matters. It is submitted that the Jamabandi of 1955-56 should have formed the basis of valuation. To this broad assertion there is no challenge. It is, however, submitted on behalf of the State that certain vital changes had been made in the quality of land after the preparation of the Jamabandi and these have been taken into account in fixing the valuation of the land. In any event, it is disputed question of fact whether the valuations, have been made in conformity with the entries in the Jamabandis and the Court will not engage itself in the task of investigating this issue. It would suffice to say that the written statement of the State contains a detailed refutation of the allegations which have been made in the petition with regard to the favouritism that has been practised in making valuations and allotment of lands on repartition.

4. Similar observations apply to the objections with regard to some of the petitioners having been allotted lands which were outside their "major holding" areas. According to the petitioners undue favours had been shown to certain named persons. This allegation has been specifically dealt with and according to the details furnished therein it seems that the allegations are lacking in substantial basis for their support. This is also a matter which cannot be gone into in writ proceedings.

5. It is also worthy of note that the petitioners have chosen to come directly to this Court for redress of their grievances which might as well have been raised before the appropriate consolidation authorities. Some of the petitioners have presented applications and they have been finally disposed of. There may be some matters which are still pending while it is certainly correct to say that many of the petitioners have not chosen even to apprise the appropriate authorities about the wrongs which are said to have been committed during the implementation of the draft same.

6. Finally the learned counsel submits that many of the non-proprietors residing

in other villages had been given agricultural sites under the provisions of rule 16(1) of the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Rules, 1949. It is denied in the written statement that the non-proprietors belong to other villages and so far as this Court is concerned, that is the end of the matter as this Court cannot make any enquiry into this issue of fact.

7. In the result this petition must fail and is dismissed. In the circumstances there will be no order as to costs.

Petition dismissed.