
(2012) 06 SHI CK 0129
In the High Court Of Himachal Pradesh
Case No : LPA No. 192 of 2007

Sh. Kanshi Ram

APPELLANT

Vs

State of Himachal Pradesh

RESPONDENT

Date of Decision : 14-06-2012

Acts Referred:

General Clauses Act, 1897 — Section 6
Punjab Reorganisation Act, 1966 — Section 5

Citation : (2013) 1 ShimLC 219

Hon'ble Judges : V.K. Ahuja, J;Deepak Gupta, J

Bench : Division Bench

Advocate : Ajay Sharma, for the Appellant; Vivek Thakur, Additional A.G. and Mr. Rajesh Mandhotra, Dy. A.G. for respondents No. 1 and 2 and Shri Tara Singh Chauhan, counsel for respondents No. 3, 4 and 7, for the Respondent

Final Decision : Dismissed

Judgement

Deepak Gupta, J.—This Letters Patent Appeal is directed against the judgment dated 12.11.2007 whereby the learned Single Judge allowed the writ petition filed by the present appellant and directed as follows:

Consequently, the writ petition is allowed. The Director, Consolidation is directed to entertain the revision preferred by the petitioner on 11.5.2001 and to hear the same in accordance with law. The Director, Consolidation is directed to conclude the proceedings within a period of three months from the date of receipt of certified copy of the judgment. The Director, Consolidation while adjudicating upon the revision preferred by the petitioner u/s 54 of the Act will take into consideration the judgment dated 31.8.1990 passed by the learned Sub Judge, Bilaspur as well as the judgment dated 30.11.2000 of learned District Judge, Bilaspur. To avoid delay, the parties are directed to appear before the Director, Consolidation on December 3, 2007. There shall be no order as to costs.

This case has an interesting background. The predecessor-ininterest of the private respondents filed a petition u/s 54 of the H.P. consolidation of Holdings

Act, 1971 (hereinafter referred to as the Act). On 20.7.1995 the Additional Director (Consolidation) remanded the case to the Settlement Officer, Bilaspur with a direction to decide the matter afresh. The Settlement Officer (Consolidation) decided the matter on 20.5.1996. Thereafter, the present appellant filed an appeal u/s 30 (4) of the Act to the Additional Director (Consolidation) which was dismissed on 23.12.2000. Feeling aggrieved by the said order the present appellant filed a Revision Petition before the Director, Consolidation on 14.5.2001. This petition was returned to the petitioner on the ground that since village Jaballi stood denotified on 15.3.1989 vide Notification No.RAJ-BHU-A(P)51/78- 2327-2334, the consolidation proceedings had come to an end and therefore the Consolidation Act could not be enforced. The learned Single Judge held that the order of the Additional Director could not be said to be final since it was subject to Revision u/s 54 of the Act and consequently, allowed the petition in the aforesaid terms.

2. Sh.Ajay Sharma, learned counsel for the appellant has raised a strong plea before us that once a village is de-notified the Consolidation Act ceases to operate in that village and consequently no authority under the Consolidation Act would have jurisdiction to hear or decide any matter. Sh.Ajay Sharma has made reference to the provisions of Sections 14, 15 and 16 of the Act. Section 15(1) reads as follows:

(1) On the publication of the declaration u/s 14, an estate, group of estates or a sub-division of an estate, as the case may be, shall be deemed to be under consolidation operations from the date of such publication until the publication of the notification that the consolidation operations have been closed.

3. As per Section 15(1), once a Revenue Estate or group of Estates etc. is declared to be under consolidation then the same shall be deemed to be under consolidation operation till the publication of the notification that the consolidation operations have been closed.

4. Section 15(2) of the Act reads as follows:

(2) Where an estate, group of estates or a sub-section of an estate is under consolidation operations, the duty of maintaining the maps, field book and preparing the annual record under the Himachal Pradesh Land Revenue Act, 1954 (Act No. 6 of 1954), as applicable to the areas which formed part of the Himachal Pradesh immediately before the 1st day of November, 1966, and the Punjab Land Revenue Act, 1887 (17 of 1887) as applicable in the areas added to Himachal Pradesh u/s 5 of the Punjab Re-organisation Act, 1966 (Act No. 31 of 1966) and the rules framed thereunder, shall stand transferred to the Settlement Officer (Consolidation), and thereupon all the powers conferred on the Collector and Assistant Collector, under the said Acts and rules, shall, so long as an estate, group of estates or a sub-division of an estate remains under consolidation operations, be exercised by the following officers:-

1. The Director of Consolidation of Holdings.

2. Settlement Officer (Consolidation).

3. Consolidation Officer.

4. Assistant Consolidation Officer.

A perusal of Section 15(2) of the Act shows that once the village/estate is under consolidation then all powers of Collectors or Assistant Collectors under various Acts are to be exercised by various Officers appointed under the Consolidation Act.

5. The main contention raised by Mr. Ajay Sharma is that once the village is de-notified then the Officers appointed under the Consolidation Act will cease to exercise jurisdiction. He also submits that supposing the consolidation operations in the entire District have come to an end, there will be no officer under the Consolidation Act in that District and to whom will any further proceedings lie.

6. We are of the considered view that the provisions of any law must be given a meaningful interpretation which furthers the objects of the Act and fulfils the intention of the legislature. Under the General Clauses Act if an enactment is repealed then unless a different intention appears such repeal shall not affect any legal proceedings or remedy in respect of any such right, privilege, obligation, penalty, forfeiture of punishment under the said Act. Though Section 6 of the General Clauses Act may not in strict terms be applicable to the present situation we are of the considered view that the principles of Section 6 would be applicable. Like in the present case, there may be many cases where a village/revenue estate/estates is de-notified without realizing that some litigation is pending. This cannot mean that the proceedings come to an end. A person aggrieved by a particular order has a right of filing appeals and revisions in terms of the Consolidation Act. These appeals or revisions etc. have to be heard by the authorities constituted under the Act and not by the authorities under the Land Revenue Act etc. Therefore, if an appeal is pending before any of the authorities constituted under the Act that appeal must be decided by that authority even if the village has been denotified. In fact all proceedings must continue and be taken to the logical conclusion till they are finally disposed of in terms of the Act.

7. An argument has been raised by Sh. Ajay Sharma that supposing consolidation proceedings have come to an end in District-A, then there is no officer for that District and before whom such proceedings will lie. In such a case, the State Government may, for the purposes of ensuring that litigation is taken to its logical end, empower the officers of the adjoining Districts where consolidation proceedings are going on to hear those matters. This is the only logical interpretation which we can give to the Act and we cannot hold that a party will be left remedy less if the village is de-notified. In view of the above discussion, we are of the considered view that the matter must be heard by the Director Consolidation as directed by the learned Single Judge. We, therefore, find no merit in the appeal which is accordingly dismissed. No order as to costs.