(2009) 05 SHI CK 0006

In the High Court Of Himachal Pradesh

Sh. Uttam Chand APPELLANT

Vs

State of H.P. and Others RESPONDENT

Date of Decision : 14-05-2009

Acts Referred:
Himachal Pradesh Ceiling on Land Holdings Act, 1972 — Section 20(2), 20(3)

Citation : (2009) 05 SHI CK 0006

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

Bench : Division Bench

Final Decision : Dismissed

Judgement

Deepak Gupta, J.

CMP No. 114/2008

1. For the reasons stated in the application, the same is allowed. Application is disposed of.

LPA No. 49/2008

2. This Letter Patent Appeal is directed against the judgment of the learned Single Judge delivered in CWP No. 1357 of 2001, decided on 29.10.2007. The short question which arises in this appeal is whether the Financial Commissioner can exercise suo motu powers u/s 20(3) of the H.P Ceiling on Land Holdings Act, 1972 (hereinafter referred to as the ''Act'') even after an order has been passed on a revision petition filed by one of the parties u/s 20(2) of the Act.

3. To appreciate this contention, it would be appropriate to quote Section 20 of the Act. It reads as follows:

20. Appeal, review and revision-(1) Any person aggrieved by any decision or order of the Collector may within sixty days from the date of the decision or order prefer an appeal to the Commissioner.

Provided that the Commissioner may entertain the appeal after the expiry of the said period of sixty days if he is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) Any person aggrieved by an order of the Commissioner made under Sub-section (1) may, within ninety days from the date of the order, file a revision petition before the Financial Commissioner so as to challenge the legality or propriety of such order and the Financial Commissioner may pass such order as he may deem fit. The order of the Financial Commissioner shall be final.

(3) Notwithstanding anything contained in the foregoing sub-sections, the Financial Commissioner may at any time call for the record of any proceedings or order of any authority subordinate to him for the purpose of satisfying himself as to the legality or propriety of such proceedings or order, and may pass such order in relation thereto as he may deem fit.

4. Sh. Ajay Sharma, learned Counsel for the appellant strenuously contended that sub Section 20(3) of the Act starts with a non obstante clause and, therefore, even if the Financial Commissioner has decided a revision petition filed by a party u/s 20(2), he is not debarred from entertaining a second revision u/s 20(3).

5. In our view, this argument is totally misconceived. A bare perusal of the Section clearly shows that against the order passed by the Collector, any aggrieved party can file an appeal to the Commissioner. Once the Commissioner passes an order, the party within ninety days can file a revision petition before the Financial Commissioner in terms of sub Section 20(1) aforesaid. The powers conferred upon the Financial Commissioner in terms of sub Section 20(3) authorize him to suo motu call for the records of any proceedings pending before any authority subordinate to him. Obviously, this sub section starts with non obstante clause "notwithstanding" because the Legislature wanted to make it clear that notwithstanding the provision enabling an aggrieved party to file a revision petition, the Legislature in its wisdom had also conferred suo motu powers on the Financial Commissioner. The use of the non obstante clause does not mean that the Financial Commissioner can exercise such powers even in a case where revisional powers have already been exercised u/s 20(2).

6. In our legal system, great emphasis is given to precedent. Every order passed by a Judicial Authority is final and binding on all concerned unless the said order is set aside by an higher authority. Judicial Discipline and Judicial hierarchy can only be maintained if such a system is followed. An authority cannot vary or modify its own order unless it has the power to review its own orders.

7. It however, cannot in the garb of review, re-open the entire proceedings. In the present case, in case the second revision is held to be maintainable, it would amount to permitting the Financial Commissioner to reopen proceedings which already stand closed. Sub-section (3) is very well worded and it clearly states that suo motu powers shall be exercised only in respect of the proceedings or orders passed by any authority subordinate to the Financial Commissioner.

Therefore, if the Financial Commissioner has already exercised these revisional powers and passed orders in terms of Sub-section (2) at the instance of either party, he would have no right at a later stage to exercise suo motu powers. The learned Single Judge was perfectly justified in holding that the second revision was, therefore, not maintainable. In fact, we find that it is the petitioner who himself filed the second revision u/s 20(3). This in fact, supports what we have said earlier. The same petitioner cannot have a right to file two revision petitions against the same order. One under Sub-section (2) and a second one under Sub-section (3). We, therefore, find no merit in the appeal which is accordingly rejected.

