
(1996) 05 SHI CK 0020
In the High Court Of Himachal Pradesh
Case No : Civil W.P. No. 192 of 1984

Smt. Mehli Devi

APPELLANT

Vs

State of H.P. and Others

RESPONDENT

Date of Decision : 30-05-1996

Acts Referred:

Himachal Pradesh Holdings (Consolidation and Prevention of Fragmentation) Act, 1971
— Section 30(2), 54

Citation : (1996) 2 ShimLC 470

Hon'ble Judges : R.L. Khurana, J;P.K. Palli, J

Bench : Division Bench

Advocate : Ramakant Sharma, for the Appellant; C.L. Sharma, A.A.G. and S.S. Kanwar, for L.Rs. of Respondent No. 3, for the Respondent

Final Decision : Dismissed

Judgement

P.K. Palli, J.—This petition is directed against order Annexure D dated 26-9-1983 passed by the Additional Director, Consolidation of Holdings exercising powers of the State Government u/s 54 of the Himachal Pradesh Holdings (Consolidation and Prevention of Fragmentation) Act, 1971 (hereafter referred to as "Act").

2. The Petitioner and legal representatives of deceased Respondent No. 3 are right-holders in revenue estate Matwar in Tehsil Hamirpur. Consolidation operations were held in the said revenue estate in pursuance of the notification. In the meeting of the proprietary body held on 18-9-1981, the Petitioner made a claim for 2 Kanals of area for the purposes of extension of her existing "Abadi" and Respondent No. 3 (deceased) likewise also made a claim of 2 Kanals for the same purpose. It may be useful to point out here that no Khasra numbers were mentioned by either of them in the said claim which has been placed on record as Annexure A, although, the name of the Petitioner figures at serial No. 6 and that of deceased Respondent No. 3 at serial No. 12.

3. On 20-12-1981, allotments were made by the Consolidation Authorities and the Petitioner was allotted one Kanal area comprising Khasra Nos. 272/92 and

273/92 each measuring 10 Marlas. Shri Lelo Ram (deceased Respondent No. 3) was allotted Khasra No. 188/90 measuring 0-9 Marlas and 233-214/142 min measuring 0-6 Marlas and again 274/ 113 and 275/113 measuring 1 Kanal. Thus, Lelo Ram was allotted 1 Kanal 15 Marlas against his claim for 2 Kanals of area.

4. Lelo Ram (deceased Respondent 3) filed a petition u/s 54 of the Act against this allotment alleging that he was in possession as owner of land comprising Khasra No. 273/92 measuring 0-10 Marlas and the same was valued as 8 Annas. The Consolidation Authorities wrongly allotted this Khasra number to the Petitioner and in fact, Khasra No. 273/ 113 which measures 0-10 Marlas and is valued as 12 Annas, stood allotted to him. It was also said that objections u/s 30(2) were raised before the Consolidation Officer regarding allotment of Khasra No. 102/2/3 and after spot inspection, 04 Marlas in Khasra No. 102/2/3 was allotted to deceased Respondent No. 3 and in order to reach this field, he had to go through Khasra No. 273/92 which stands allotted to the Petitioner. It was also said that there was no other passage to reach the above said Khasra number and, therefore, Khasra No. 273/92 could not be allotted to the Petitioner and the same was against the scheme.

5. The matter was examined by the Additional Director, Consolidation and on perusal of the record, it was found that Khasra No. 273/92 valuing 8 Annas, was, in fact, located near the house of deceased Respondent No. 3 and the same appears to have been wrongly allotted to the Petitioner without any right and the land bearing Khasra No. 274/113 belonged to the Petitioner where she had her first major portion of 12 Annas with percentage of 100% This land could, thus, not be allotted to Lelo Ram (deceased Respondent 3). It was, thus, found that Khasra No. 274/113 measuring 0-8 Marlas exists at the first major portion of the Petitioner and values to 12 Annas and she was not allotted land on this place. It was also found that Khasra No. 273/92, which is presently in dispute, was previously owned by Lelu Ram and was near to his "Abadi" and was wrongly allotted to the Petitioner. The claim of deceased Respondent No. 3 was, thus, found genuine and the petition was accepted.

6. As a sequence of the impugned order, Khasra No. 273/92, which was transformed into new No 139 min south, measuring 0-5 Marlas standard, was ordered to be restored to deceased Respondent No. 3 and the Petitioner was allotted old Khasra No. 274/113 min measuring 0-5 Marlas standard and now formed 125 min west.

7. Learned Counsel appearing for the Petitioner contends that the whole process of consolidation operation is aimed as to consolidate different fields of the proprietor lying scattered at different places and the Petitioner stands wrongly uprooted from the piece of land which rightly stood allotted to her. It is next contended that the impugned order was not in consonance with the spirit of the scheme and the order was without jurisdiction.

8. In reply, learned Counsel appearing for the legal representatives of deceased Respondent No. 3, submits that the Petitioner had her first major portion of second block of 12 Annas value over Khasra No. 274/113 and there the percentage was hundred per cent, but this land was not allotted to her and area which belonged to deceased Respondent No. 3, was unlawfully withdrawn from him and allotted to the Petitioner. It is further said that since the initial allotment made to the parties was against the provisions of the scheme, the revision petition filed by deceased Respondent No. 3 rightly stood accepted by the Additional Director, Consolidation of Holdings and deceased Respondent No. 3 was restored his piece of land which belonged to him and was existing near his "Abadi" area.

9. After hearing the learned Counsel for the parties and on perusal of the pleadings and other relevant material placed on record by the parties, we are of the opinion that no fault can be found with the impugned order.

10. It is too well known that the right-holder is to be adjusted near his major portion. It is not denied that the major portion of the Petitioner is at a place where she has now been allotted Khasra No. 274/113 min. It is also not disputed that Khasra No. 273/92 originally belonged to deceased Respondent No. 3 and was near to his "Abadi" area and he stood wrongly deprived of this area.

11. So far as the jurisdiction of the Additional Director is attacked, there is no force in the contention as the allotment had been made in favour of the Petitioner against the provisions of the scheme and for that the Additional Director, who is exercising powers of the Government, has vast powers to correct all errors and omissions in respect of allotments made which are not in consonance with the provisions of the consolidation scheme.

12. The impugned order, thus, appears to be absolutely just and proper and substantial justice appears to have been done between the parties. More over, finality has to be attached to the orders which are not otherwise perverse and have settled the position between the parties several years ago.

13. Learned Counsel appearing for the Petitioner has not been able to persuade us to take a different view of the matter than the one arrived at in the impugned order.

14. No other point has been pressed.

Resultantly, the writ petition is wholly devoid of merit and is ordered to be dismissed. No costs.