

(2004) 12 P&H CK 0030

High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Revision No. 3111 of 1984

Satnam Singh

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

Date of Decision: Dec. 17, 2004

Acts Referred:

- East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948 - Section 42

Citation: (2005) 140 PLR 271 : (2005) 3 RCR(Civil) 55

Hon'ble Judges: M.M. Aggarwal, J

Bench: Single Bench

Advocate: R.S. Ghuman, for the Appellant; K.S. Boparari, Additional A.G., M.S. Kang and Malkeet Singh, for the Respondent

Judgement

M.M. Aggarwal, J

1. This is a petition for setting aside order dated 12.4.1984 passed by the Additional Director, Consolidation of Holdings, Punjab, Jalandhar u/s 42 of the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948 (hereinafter referred to as the Act) (Annexure P-2).

2. According to the petitioner, consolidations of holdings had taken place in Village Bharoli in the year 1953. The scheme was published on 24.10.1953 and confirmed on 27.4.1954. The repartition was completed on 15.10.1954. The petitioner had installed a tubewell with an electric motor in Kurrah. However, vide order dated 1.6.1979 passed u/s 42 of the Act, the Director, Consolidation of Holdings, Punjab had made following orders:-

"For the removal of the defects pointed out above, it is necessary to prepare a fresh scheme for the village but keeping the old valuations in fact. Therefore, the consolidation scheme earlier prepared and the consequent repartition carried out

thereafter, is hereby revoked. The consolidation operations would be taken up afresh from the scheme stage as directed above. At the time of repartition, however, special attention will be paid to safeguard the interests of such persons as have carried out lot of developments in their new blocks. Either their major portions would comprise such land or the same would be reserved in their favour if they so want. The idea is to cause least possible disturbance to the existing possession."

3. In accordance with the above order, a scheme for consolidation was prepared. The value of the land originally fixed in 1953 was retained but it was provided that the persons, who had installed electric motors for irrigation, would be entitled to retain their land at the place of installation of their motor. The petitioner was allowed to retain the land as already given to him. The petitioner was in possession of the land for the last 30 years and then one Hem Raj moved an application and order dated 12.4.1984 was passed by the Additional Director, Consolidation of Holdings, u/s 42 changing the nature of land. It was stated that the order was illegal and it had unsettled the settled position and put the petitioner to loss, Therefore, this petition to set aside the order and other relief whatsoever is permissible.

4. This petition was contested by the respondents, who filed written statement that the order of the Additional Director was most appropriate passed after inspection of the spot and plaintiff did not suffer any loss.

5. Annexure P-1 is order dated 1.6.1979 whereby the earlier scheme had been set aside and the final order was made by the Director, Consolidation of Holdings as reproduced above. Annexure P-2 is the impugned order dated 12.4.1984 made by Swami Ram Bharti, Additional Director Consolidation of Holdings, Punjab Jalandhar on a petition u/s 42 of the Act filed by Hem Raj. The land already given to Hem Raj, Sarjit Kaur and Satnam Singh, the present position had been changed. Annexure P-4 is an order of the same Officer i.e. Swami Ram Bharti, Additional Director Consolidation of Holdings, Punjab Jalandhar dated 6.4.1984 on a petition filed by one Achhar Singh in which the Officer had observed as under:-

"I have heard the parties carefully and have gone through the record brought by the field staff as well as the record placed on the file. I find that the Settlement Officer, Consolidation of Holdings vide his order dated 9.6.1982 reversed the original position which prevailed during 30 years back. In my view, it will be too much to oust a right holder who has held on a piece of land for 30 long years after the same was allotted to him by the Consolidation Authorities. If we go on disturbing people like this, there will be no end of shifting and the interests of right-holders with regard to cultivation and management will suffer irreparably and the dispute will go on mounting and the problems will be complicated unnecessarily."

6. Annexure P-3 is the report of A.A.C.O. after visiting the spot in the petition filed by Hem Raj against the present petitioner Satnam Singh and some others. In that, it had been observed that the objection of Hem Raj was that Kill No. 32/6-7-8 was at

higher place and it could not be irrigated but on the spot it was found that it was only a little bit higher than other land and the water from the well of Hem Raj can irrigate the same. The wheat crop on this land at the spot is better than the wheat crop in other field. It appears that inspite of this report, order Annexure P-2 not in question, was passed by the Additional Director.

7. The fact that there had been consolidation in the year 1953-54, is not disputed. The fact remains that the earlier scheme had been set aside and order Annexure P-1 was made for a new scheme and also for paying special attention to safeguard the interest of such persons as had carried out lot of developments, in their new blocks. Either their major portions should have comprised such land or the same should have been reserved in their favour if they so desired. The idea was to cause least possible disturbance to the existing possession. Ex.P-2 disturbs the position, to a large extent from the position already there.

8. Learned counsel for the respondents has argued that the scheme had not been challenged. No objections to the scheme prepared in the year 1980, had been filed and the petitioner had no rigid to come to this Court merely because some land had been taken and some land had been given.

9. There was consolidation of Holdings in the year. 1953-54 and the petitioner had been given certain land, which remained in his possession upto the new scheme. Even after new scheme and even after order Ex.P2, the same land is still with the present petitioner, which is now since 50 years. Under the circumstances, I find that it will be in the interest of justice and incumbent on the concerned authorities to visit the spot and check the latest position especially when the impugned order Ex.P2 had been made as far back as more than about 20 years back i.e. on 12.4.1984. If the parties have somehow settled in the land in their respective possession during these twenty years of this order, then possession should not be changed.

10. Under these circumstances, order dated 12.4.1984 (Annexure P-4) is set aside. The matter shall stand remitted to the Director, Consolidation of Holdings, Punjab to decide afresh.

11. Parties to put up in appearance there on 17.1.2005.