

IN THE HIGH COURT OF HIMACHAL PRADESH,
SHIMLA.

CWP No.934/2005

Reserved on:4.4.2008

Decided on.30.4. 2008

Daleep Singh alias Jeet Singh. ...Petitioner.

Versus

State of Himachal Pradesh and others. ...Respondents

Coram

The Hon'ble Mr. Justice Rajiv Sharma, J.

Whether approved for reporting ?¹. No.

For the petitioner : Mr. B. N. Gupta, Advocate.

For the respondents : Mr. Rajinder Dogra, Additional Advocate General for respondents No.1 and 2.

Mr. D. Dadwal, Advocate for respondent No.3.

The brief facts necessary for the adjudication of this petition as gathered from the pleadings of the parties are that the consolidation operations commenced in the petitioner's village in the year 1984 and were completed in the year 1988. The scheme was prepared as per the provisions of the Himachal Pradesh (Consolidation and Prevention of Fragmentation) Act, 1971 (Act No. 20 of 1971) on 14.4.1986. After the completion of the consolidation proceedings, the village was de-notified on 8.12.1997 in terms of section 15 (1) of

¹ *Whether the reporters of Local Papers may be allowed to see the judgment?* No

the Himachal Pradesh (Consolidation and Prevention of Fragmentation) Act, 1971 (hereinafter referred to as the Act).

Mr. B. N. Gupta, Advocate had strenuously argued that since his client was serving in the Army with effect from March, 1962 to 1st March, 1994, he has been given the land inferior vis-à-vis respondent No.3. He further contended that his client retired in the year 1994 and was not aware of the exact position and it was only in the month of February, 2005 that the Patwari serving in the office of Deputy Commissioner, Kangra at Dharamshala apprised him about the true position with regard to the consolidation proceedings which have taken place in his village with effect from 1984 to 1988. He also contended that order dated 11.4.2005 passed by the Assistant Consolidation Officer (Peshi) to the Director Consolidation of Holdings on his application is not sustainable in the eyes of law.

Mr. Rajinder Dogra, Additional Advocate General and Mr. D. Dadwal Advocate appearing on behalf of the respondents have supported the order dated 11.4.2005.

The position which emerges from the above enumerated facts is that the consolidation operations in the petitioner's village commenced in the year 1984 and the operations were completed in the year 1988. The consolidation proceedings were denotified on 8.12.1997 as per the provisions of the Himachal Pradesh (Consolidation and Prevention of Fragmentation) Act, 1971. The petitioner was discharged from the Army on 1st March, 1994. The application has been preferred by him on 19th March, 2005, the same was not attended to by the Assistant Consolidation Officer

(Peshi) to the Director Consolidation of Holdings, Himachal Pradesh on 11.4.2005. The petitioner had not explained why he had not approached the concerned authority within a reasonable time. He was bound to know the status of his land when he came from the Army in the year 1994. The consolidation proceedings were denotified as stated hereinabove on 8.12.1997. The reasons assigned by the petitioner that he was only apprised of the status of his land by the Patwari in the month of February, 2005 is neither convincing nor plausible. The owners and tenants entered into possession of holdings allotted to them during the course of consolidation proceedings. The Consolidation Officer has to prepare a new record of rights as per the provisions of the Himachal Pradesh Revenue Act, 1954. This process stood completed between 1984 and 1988. The Court will not disturb the settled position, which has attained the finality. Respondent No.3 has been put in possession of the land allotted to him between 1984 to 1988 and at this stage it will not be appropriate to dislodge him from his settled possession.

Consequently, it is held that there is neither any infirmity nor any illegality in the order dated 11.4.2005.

Accordingly, there is no merit in the writ petition and the same is dismissed with no order as to costs.

(Rajiv Sharma), Judge

30th April, 2008
Awasthi