

Gram Panchayat Vs. Additional Director, Consolidation of Holdings and ors.

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Court : Punjab and Haryana

Decided On : Nov-17-2004

Reported in : (2005)139PLR464

Judge : Ashutosh Mohunta, J.

Appeal No. : Civil Writ Petition No. 4069 of 1987

Appellant : Gram Panchayat

Respondent : Additional Director, Consolidation of Holdings and ors.

Advocate for Def. : R.K. Handa, Addl. A.G. for Respondent No. 1 and; Ashok Sharma Nabhewala, Adv. for Private Respondents

Advocate for Pet/Ap. : Sarjit Singh, Sr. Adv. and; Vikas Singh, Adv.

Judgement :

Ashutosh Mohunta, J.

1. The petitioner has filed the present writ petition seeking to quash the impugned order dated 19.1.1987 (Annexure P1) passed by the Additional Director Consolidation, Punjab, Jalandhar, by which the petition filed by respondent Nos. 2 to 7 was accepted and the matter was remanded back to the Consolidation Officer, Hoshiarpur, for redetermining the share of the right-holders. The Additional Director Consolidation vide the impugned order has directed that the Consolidation

Officer should pass a suitable order for declaring the land as shamlat land and thereafter has further directed that he should take suitable action for partitioning the same after determining the share of the right-holders.

2. Mr. Sarjit Singh, learned senior counsel, contends that once the land is shamlat deh then the Consolidation Officer has no jurisdiction to partition the shamlat deh land. It is further contended that the Consolidation Officer also does not have any jurisdiction to declare any particular land to be shamlat deh or not.

3. The arguments raised by the counsel for the petitioner have been controverted by Mr. Nabhewala who contends that as long as the nature of the land is not determined, it cannot be said that the land in question is shamlat deh or not. He further submits that in case the Consolidation Officer comes to the conclusion that the particular piece of land is shamlat deh then that land has to be separated from the Bachat land and is not available for partition.

4. After hearing the learned counsel for the parties, I modify the impugned order dated 19.1.1987 passed by the Additional Director Consolidation, Punjab, Jalandhar, to the extent that the Consolidation Officer shall determine the nature of the entire land available and the land which is described as shamlat deh would not be partitioned in any manner by the Consolidation Officer. However, the Bachat land may be partitioned between the right-holders. In case the respondents are dissatisfied with the description of certain land as shamlat deh, they may challenge the same before the appropriate authority.

5. Writ petition is disposed of.