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IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(C) 8234/2010 & CM No.21203/2010 (for stay)

RAMPHAL

..... Petitioner

Through: Mr. Rajat Aneja & Ms. Shweta Singh,
Advocates

Versus

CONSOLIDATION OFFICER & ANR

..... Respondents

Through: Mr. Vinod Wadhwa, Adv. for R-1.
Mr. Parvinder Chauhan, Adv. for R-2.

AND

+ W.P.(C) 8237/2010 & CM No.21209/2010 (for stay)

DHARAMBIR SINGH & ANR

..... Petitioners

Through: Mr. Rajat Aneja & Ms. Shweta Singh,
Advocates

Versus

CONSOLIDATION OFFICER & ANR

..... Respondents

Through: Mr. Vivek Ojha, Advocate for Ms.
Aruna Tikku, Advocate for R-1.
Mr. Parvinder Chauhan, Adv. for R-2.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

16.12.2010

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1. The counsel for the respondent No.2 has appeared. The counsel for the respondent No.1 as well as the counsel for the respondent No.2 have been made aware of the earlier order dated 9th December, 2010. They have no objection to the clarification as sought by the petitioner being given on the condition that the Court / Fora approached by the petitioner would be open to consider the opposition of the respondents to the relief / remedy claimed by the petitioner including on the aspects of jurisdiction and limitation.

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2. Another thing which has disturbed this Court with respect to the order of the Consolidation Officer, revision whereagainst was dismissed by the Financial Commissioner, is that though the Consolidation Officer was approached by the respondent No.2 only under Section 26 of the East Punjab Holdings (Consolidation & Prevention of Fragmentation) Act, 1948 but the Consolidation Officer has while granting the relief "given post consolidation Khasra No..... within the scope and meaning of Section 26 of East Punjab Holdings (Consolidation & Prevention of Fragmentation) Act, 1948" to the respondent No.2. It has been enquired from the counsel for the respondent No.2, whether the same tantamounts to the respondents No.2 getting a post consolidation Khasra in his own name rather than the name of the respondent No.2 being recorded / entered only as an encumbrance holder with respect to the said Khasra number in the name of the petitioner. The counsel for the respondent No.2 has fairly stated that owing to the pending litigation, the orders have not been implemented as yet but since the proceedings before the Consolidation Officer were under Section 26 of the Act, the scope thereof is to the extent of Section 26 of the Act only.

3. However, while disposing of the petition, it is left open to the petitioners to, if in implementation of the said orders anything more than that which is possible under Section 26 of the Act is done, to raise objection with respect thereto.

4. The counsel for the petitioners has also argued that it should be clarified that the findings given in the orders impugned in these petitions are not as to the title and that it will be open to the fora / Civil Court to be approached by the petitioners to go into the question of title.

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5. It is felt that the said question will have to be decided by the fora / Civil Court to be now approached by the petitioners.

6. The counsel for the petitioners has contended that the dismissal of the present petitions even with the clarifications aforesaid made, will lead the Civil Court to hold that the writ petitions being dismissed, this Court has affirmed the finding of title.

7. The aforesaid apprehension of the petitioners can be allayed with further clarification that the disposal of these petitions will not lead to any such conclusion.

8. With the aforesaid clarifications, the petitions are disposed of with no order as to costs.

DECEMBER 16, 2010
'gsr'

RAJIV SAHAI ENDLAW, J