$~24

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ W.P.(C) 11823/2004

SATBIR SINGH ..... Petitioner

Through: Ms. Geeta Mehrotra and Mr. Awijit Paliwal, Advocate

versus

FINANCIAL COMMISSIONER & ORS. ..... Respondents

Through: Mr. R.P. Vats, Advocate

CORAM:
HON'BLE MR. JUSTICE RAJIV SHAKDHER

<u>O R D E R</u>

% 13.08.2015

1. By this writ petition, challenge is laid to the following orders i.e. order dated 03.03.2003, 10.11.2003 and 26.02.2004.

1.1 The first order (i.e. order dated 03.03.2003) has been passed by the Consolidation Officer (i.e. respondent no.3). The second order (i.e. order dated 10.11.2003) has been passed by the SDM / RA (Settlement Officer), (i.e. respondent no.2), while the third order (i.e. order dated 26.02.2004), is passed, by the Financial Commissioner (i.e. respondent no.1).

2. Briefly, the case of the petitioner, is that, consolidation proceedings were held in respect of village Rawata, Najafgarh, Delhi. The consolidation proceedings, as averred, were carried out under the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948 (hereinafter, in short, referred to as, the 1948 Act).

2.1 In pursuance to the consolidation exercise, carried out under the 1948

Act, a scheme of consolidation was prepared.

2.2 The petitioner, in terms of the scheme, claims that he is entitled to a plot admeasuring 2 bighas and 8 biswas (standard) in his "hermohar" (i.e., vicinity), but the Consolidation Officer, instead, allotted a plot, bearing no. 74/144, , in contravention of the scheme under Section 21 of the 1948 Act.

2.3 The petitioner was aggrieved by the same, and hence, filed objections, dated 25.06.2002, under Section 21(2) of the 1948 Act. These objections were allowed by the Consolidation Officer vide order dated 11.11.2002.

2.4 It appears that respondent no.4 i.e. Smt. Chandra Wati had also filed her objections, which are dated 26.06.2002. Respondent no.4, had filed her objections as she was allotted plot no.74/143.

2.5 To be noted, the Consolidation Officer while allowing the objections of the petitioner, vide order dated 11.11.2002, somehow, did not take into account the objections filed by respondent no.4, which, as indicated above, were pending with him, and are, dated 26.06.2002. By virtue of order dated 11.11.2002, the petitioner was allotted plot bearing no. 74/142 (hereafter referred to as the subject plot).

2.6 There is another facet of the matter (which emerges from the record), which is, that, respondent no.4 (i.e. Smt. Chandra Wati) had filed an application, on 12.07.2002, for exchange of her plot no.74/143 with that of Mr. Umrao Singh, who had been, initially, allotted plot no.74/142 (i.e. the subject plot).

2.7 The record shows that the Consolidation Officer, on 03.03.2003, took up the objections of respondent no.4 (i.e. Smt. Chandrawati) and reversed his earlier decision, which was passed in favour of the petitioner. The net effect was that respondent no.4 (i.e. Smt. Chandra Wati) was allotted plot no.74/142 (i.e. the subject plot).

2.8 Aggrieved by this, the petitioner filed the appeal under Section 21(3) of the 1948 Act, against the order dated 03.03.2003, passed by the Consolidation Officer.

2.9 Apart from the above, Mr. Umrao Singh also preferred an application against the order dated 11.11.2002.

3. Both the appeal of the petitioner as well as the application of Mr. Umrao Singh came up before respondent no.2 [i.e. SDM / RA (Settlement Officer)].

3.1 Mr. Umrao Singh's application was dismissed by respondent no.2, so was the appeal of the petitioner herein. The appeal of the petitioner was dismissed by respondent no.2 vide order dated 10.11.2003.

3.2 Against both the order of the Consolidation Officer dated 03.03.2003 and the order passed by respondent no.2 dated 10.11.2003, a revision was preferred before respondent no.1 (i.e. Financial Commissioner) by the petitioner.

3.3 The revision was dismissed, as indicated above, vide order dated 26.02.2004.

4. It is, in these circumstances, that the present writ petition has been filed by the petitioner, assailing all three orders, to which, I have made a reference above.

5. The principal grounds, which have been raised by the petitioner before this court, are as follows :-

(i). That the order of the Financial commissioner contains no reasons.

(ii). That the order of respondent no.2 is predicated on the fact that the tube well and Samadhi was located on plot no.74/142 (i.e. the subject plot) contrary to the statement made by respondent no.4 (i.e. Smt. Chandra Wati).

(iii). That the order passed by the Consolidation Officer dated 11.11.2002, was passed in favour of the petitioner, without notice to respondent no.4, was erroneous as, it was passed in her presence.

(iv). That no objection was taken by Mr. Umrao Singh, to whom plot no.74/142 (i.e., the subject plot) was allotted, and that, in any event, the pending application, was only for exchange of land with respondent no.4 (i.e. Smt. Chandra Wati).

6. Ms. Mehrotra, who appears for the petitioner, has argued on the lines indicated above.

7. Mr.Vats, who appears for respondent no.4, says that since the subject land (i.e. plot no.74/142) was part of the said respondent's pre-consolidation holding, it ought to be given to her, as per the consolidation scheme. It is Mr. Vat's contention that therefore, the three impugned orders passed, are in order, and ought to be sustained.

8. I have heard the learned counsel for the parties. I am of the view that these are aspects that the Financial Commissioner ought to have considered in the revision proceedings. Unfortunately, the order dated 26.02.2004 is bereft of any reasons, whatsoever. Respondent no.1 has simply indicated in his order that the order passed by the authorities below requires no interference and hence, proceeded to dismiss the revision petition summarily.

9. Respondent no.1 was, to my mind, required to consider all those aspects to which I have made a reference above in paragraph 5. The factual basis set forth in the order of respondent no.2 with regard to the well being located on the subject plot and Samadhi are challenged by the petitioner. Therefore,

in my opinion, the order passed by respondent no.1, being without reasons, the same would have to be set aside. It is ordered accordingly. In these circumstances, the matter is remanded to respondent no.1 (i.e. Financial Commissioner) for a fresh decision in the matter.

9.1 It is made clear that if on hearing parties, the Financial Commissioner is of the view that the matter requires to be remanded to the authorities below, he will pass the necessary order in that behalf. Respondent no.1 will also, if found necessary exercise, requisite power to call for and examine the record of the case to come to a conclusion in the matter one way or the other.

10. Needless to say, the Financial Officer will do the needful with due expedition though, no later than four months from today.

11. With the aforesaid observations in place, the captioned petition is disposed of.

RAJIV SHAKDHER, J

AUGUST 13, 2015
yg