

CASE NO.:
Appeal (civil) 4551 of 2000

PETITIONER:
Siri Ram Batra and others

RESPONDENT:
Financial Commissioner, Delhi and others

DATE OF JUDGMENT: 17/09/2004

BENCH:
Shivaraj V. Patil & B.N. Srikrishna

JUDGMENT:
J U D G M E N T

Shivaraj V. Patil, J.

The only point that arises for determination is whether the appellants are entitled to the benefit of allotment of Beshi Phirni area as a result of inclusion of Killa No. 28/22 within the extended phirni as a result of the amended Scheme of consolidation confirmed on 12.8.1991.

One Dinesh Kumar, respondent No. 4 in this appeal, was right-holder of land in field No. 1244 at Alipur at the time of commencement of the operation of consolidation. The said land was included in the phirni (Laldora) when the original Scheme of consolidation was brought into force in the year 1987. As per the Scheme he was allotted three times area of agricultural land in lieu of field No. 1244. The area so allotted was comprised in field Nos. 28/12, 28/19 and 28/22. Accordingly he was put in possession of the said lands during the repartition proceedings in the year 1987. Thereafter, in the year 1988 the respondent No. 4 sold his land in Killa No. 28/22 measuring 4 bighas and 9 biswas in the year 1988 to Gautam Jain, respondent No. 3 herein. This Killa No. 28/22 was Khasra No. 324 earlier, i.e., pre-consolidation field number. Since respondent No. 4 had already taken benefit of the inclusion of his land in Field No. 1244 in the Laldora the Consolidation Officer, by his order dated 25.3.1992, allotted equal area forming Killa Nos. 102/19 and 102/20 to respondent No. 3 in lieu of Killa No. 28/22, which was included in Laldora consequent to the amendment of the Scheme of consolidation. The respondent No. 3 filed a revision petition before the Financial Commissioner, Delhi under Section 42 of the East Punjab Holding (Consolidation & Prevention of Fragmentation) Act, 1948 (for short 'the Act'), making a grievance that the Consolidation Officer had committed an error in not extending the benefit of Beshi Phirni to him by not allotting him three times of the value of his land included within the phirni as per the amended Scheme. The Consolidation Officer, in the comments offered by him to the revision petition, stated that the Beshi Phirni as a result of the inclusion of Killa No. 28/22 within the extended phirni has been given to the appellants on the ground that Killa No. 28/22 actually formed the pre-consolidation Khasra No. 324, which was in their bhumidari. It was further explained that the benefit of Beshi Phirni had to be given to the previous/original bhumidars and that the respondent No. 3 was not entitled to such benefit as he had purchased the land in question, which was mutated in his name much after the formation of the original Scheme. In view of the comments the appellants were impleaded as parties to the revision petition. The learned Financial Commissioner, after

elaborately considering the respective contentions of the parties in the light of the material placed before him, allowed the claim of respondent No. 3 by order dated 23.10.1992. The appellants being aggrieved by the said order of the Financial Commissioner filed the Civil Writ Petition No. 68 of 1993 before the High Court. Learned single Judge of the High Court by a detailed and well-considered order did not find any merit in the writ petition. Consequently the writ petition was dismissed. Thereafter, the appellants filed the Letters Patent Appeal No. 468 of 1999 before the Division Bench of the High Court. By the impugned judgment the Division Bench of the High Court, agreeing with the findings recorded by the learned single Judge affirming the order of the Financial Commissioner, dismissed the appeal. Hence this appeal.

Learned senior counsel for the appellants, on the basis of the amended Scheme issued under Section 36 of the Act (Annexure P-1 \026 translated version), urged that the appellants being old bhumidars were entitled for the benefit as a result of inclusion of the land Kila No. 28/22 (the original khasra No. 324), of which the appellants were bhumidars. In particular, he drew our attention to the portion in Annexure P-1 "While allotting plots the right for allotment would be of the old bhumidars only if their names are mentioned in the list". According to him respondent No. 3 is not the old bhumidar. The learned counsel urged that under the Scheme the appellants were entitled for the benefit, if any meaning is to be given to the use of the words "old bhumidars" (Sabik Bhumidars) in Annexure P-1.

Per contra, learned counsel for the respondent No. 3 argued that the Financial Commissioner, the learned single Judge as well as the Division Bench of the High Court have correctly interpreted Annexure P-1 in holding that the benefit was available under the Scheme to respondent No. 3. He pointed out specifically to the portion of the Scheme "However, Bhumidars who were allotted preconsolidation area under 21(1) and the same has been sold the purchasers would be entitled to the aforesaid benefit". In view of this proviso in Annexure P-1 no fault can be found with the impugned judgment.

We have carefully considered the submissions made by the learned counsel for the parties.

The appellants were original bhumidars of land bearing Khasra No. 324 in village Alipur. This land was included in Laldora. Pursuant to their application the appellants were allotted plot No. 679 in lieu of land bearing Khasra No. 324, which was accepted. Thus the appellants ceased to have any right or interest over the land No. 324 after accepting the plot No. 679 in lieu of it as stated above. It is thereafter the land bearing Khasra No. 324 was allotted to respondent No. 4 in lieu of his plot No. 1244, which was included in Laldora area.

It is better to notice material events to appreciate the respective contentions. The consolidation proceedings were started in village Alipur under the Act in the year 1987. The Scheme of consolidation prepared under Section 19 of the Act was confirmed under Section 20 of the Act by the Settlement Officer on 24.7.1987 in respect of the said village. The respondent No. 4 was right-holder of the land in field No. 1244 of the said village. This land was included in the phirni (Laldora) when the original Scheme of consolidation came into force in the year 1987. He got the benefit of inclusion of this land in the extended Laldora and was allotted three times area of agricultural land of the pre-consolidation area comprising of three field numbers given new Killa numbers during the repartition, namely, 28/12, 28/19 and 28/22 (pre-consolidation field No. 324) each measuring 4 bighas and 9 biswas. Thereafter, he sold his land Killa No. 28/22 to respondent No. 3

in the year 1988. Thus, the respondent No. 4 had availed the benefit in lieu of inclusion of his land field No. 1244. The Scheme was amended on 24.7.1991, i.e., long after the respondent No. 3 purchased the land Killa No. 28/22. By the amended Scheme of consolidation the Laldora was extended by inclusion of land measuring 56 bighas and 6 biswas comprised in various field numbers including No. 324.

From the events mentioned above, it is clear that the appellants ceased to be the bhumidars of the field No. 324 from the date they got the land field No. 679, which they accepted in lieu of the land No. 324. Thereafter, respondent No. 4 became the owner of the Killa No. 28/22 (old Khasra No. 324) as it was allotted to him in lieu of inclusion of his land No. 1244. Further, respondent No. 3 purchased the said land much later. As on the date of approval of the amended Scheme of consolidation the respondent No. 3 was owner of this land having purchased it under registered sale deed from respondent No. 4.

The Financial Commissioner in his order, looking to the Hindi version of the amended Scheme (Annexure P-1), has observed, thus: -

"This controversy is set at rest by the reading of the Hindi version of the amended scheme of consolidation, which amplifies the position. It has been laid down therein that the Beshi Phirni shall go to the original right holder according to the original scheme. However, in cases the right holders who have transferred the land after repartition under section 21(1) of the Act, the benefit of Beshi Phirni shall accrue to the purchaser. Here, in this case, admittedly the respondents No. 4, 5 and 6 had been allotted plot No. 679 during repartition in lieu of Khasra No. 324. They did not raise any objection against this allotment. Consequently, allotment of plot No. 679 became final. It is also not the case of these respondents that Khasra No. 324 had been included within the extended phirni in the original scheme of consolidation. That being so, their right to the benefit of Beshi Phirni stood waived at that stage itself. Killa No. 28/22 is admittedly the new number of pre-consolidation Khasra No. 324. Allotment of Killa No. 28/22 was made to Shri Dinesh Kumar along with Killa Nos. 28/12 and 28/19 during repartition under Section 21(1) of the Act in lieu of his pre-consolidation khasra No. 1244 which was consumed in the extended phirni in pursuance of the original consolidation scheme of the village and Dinesh Kumar was given the benefit of Beshi phirni at the moment. Later on, the petitioner purchased the land allotted to Dinesh Kumar under Section 21(1) of the Act. Now, out of the land so purchased by the petitioner, Killa No. 28/22 has been included within the extended phirni pursuant to the amended scheme of consolidation. Apparently, after allotment under section 21(1) of the Act, Dinesh Kumar transferred land to the amended scheme of consolidation, the petitioner was the bhumidar of Killa No. 28/22. His case is fully covered under the provisions of the amended scheme which envisages categorically that in case of the right-holder who transferred the land after

repartition under section 21(1), the benefit of Beshi phirni shall accrue to the purchaser. Undisputedly, the petitioner was the bonafide purchaser of Killa No. 28/22 at the relevant time and as such he is fully entitled to the benefit, as claimed by him."

Learned single Judge of the High Court in his order has reproduced the operative portion of the order dated 25.3.1992 made by the Consolidation Officer, which reads: -

"IN THE COURT OF THE CONSOLIDATION

OFFICER: DELHI

Case No. 3097 to 3105/C.O. Village Alipur

Date of Order: 25.3.92.

During the consolidation proceedings in village Alipur which were taken up in the year 1986, some of the lands holders who were deprived of their rights for residential plots as per their demands, moved the court of the S.O.(C) and some of them went to the Hon'ble Financial Commissioner. Their pleas for allotment of residential plots were upheld by the S.O.(C) and the Hon'ble F.C. respectively and the cases were remitted back for allotment of residential plots to the aggrieved persons in the extended abadi.

The scheme was amended u/s 36 of the Act with a view to accommodate the demand created for allotment of residential plots to the above category of land holders who were earlier denied residential plots and phirni who extended for an area measuring 56 Big. 6 Bis. on the Northern side. The demand of majority of persons who were to be allotted residential plots was for the North or North West side. However, an application dated 10.9.91 moved by Jai Singh S/O Bharat Singh and six others for extending the abadi in the South-East side on the ground that their homes in the village are situated in that side, thus asking for plots near their houses. It was not found feasible to extend the phirni on the South-West side as there are large number of built up structure abutting the G.T. Road and the pre-extended phirni, i.e. the Farm Road. On the East side there is no land as the pre-extended phirni touches the G.T. Road."

Learned single Judge, having regard to the findings of fact recorded by the Financial Commissioner and also looking to the amended Scheme as per Annexure P-1, rightly dismissed the writ petition.

The Division Bench of the High Court, as is evident from the impugned judgment, having looked into the order made by the Financial Commissioner as well as by the learned single Judge, did not find any error in the findings recorded by both of them. In the impugned judgment it is observed that "the rights of the appellants in Plot No. 324 had come to an end the moment they were allotted and accepted Plot No. 679 in the extended Lal Dora. Merely because there was a subsequent amendment of the Consolidation Scheme, it does not mean that the old rights get revived. Once appellants accepted Plot No. 679 they had no further rights in Plot No. 324. If Plot No. 324 now gets included in the amended scheme the benefit must go to the purchaser.

It has been strenuously urged that to hold as above would lead to an absurdity and/or that rules of interpretation of

statutes do not permit such an interpretation to be given. In our view a submission that a person who no longer has any right in Plot No. 324 must still get benefit of the amendment is an absurd submission. To accept such a submission would lead to unjustness and unfairness. No rules of interpretation can permit such an interpretation to be given. We, therefore, see no reason to interfere with the impugned judgment."

In view of what is stated above, we find it difficult to accept the arguments advanced on behalf of the appellants that they were entitled to the land in question only on the ground that they were original bhumidars. The Scheme Annexure P-1 must be read and understood in its entirety in the given background. If the argument of the learned counsel for the appellants is to be accepted the proviso contained in Annexure P-1 that "However, Bhumidars who were allotted preconsolidation area under 21(1) and the same has been sold the purchasers would be entitled to the aforesaid benefit", will be meaningless or redundant. Annexure P-1 cannot be read as a statute. Even a statute has to be read and understood meaningfully and purposefully in the context of the object or purpose it seeks to achieve.

In our view, the interpretation placed on Annexure P-1 by the Financial Commissioner, as affirmed by the learned single Judge as well as by the Division Bench of the High Court, is a correct interpretation. The appellants having lost their rights over the land bearing Khasra No. 324 and having got the land No. 679 in lieu of it, do not have any right or interest over the land bearing Khasra No. 324 so as to claim any benefit under the amended Scheme as bhumidars when they no more remained bhumidars on the relevant date and under Annexure P-1 the benefit is to be given to persons, who lost their lands, to compensate them. The appellants did not lose any land under the new Scheme on account of extended Laldora. The original bhumidar in relation to the land Killa No. 28/22 would be respondent No. 4.

Thus, viewed from any angle no fault can be found with the impugned judgment. Hence, we find no merit in the appeal. Consequently it is dismissed, but with no order as to costs.