

# PUNJAB AND HARYANA HIGH COURT

Gram Panchayat

Vs

Har Lal

Letters Patent Appeal No. 556 of 1968

(D.K. Mahajan and Bal Raj Tuli, JJ.)

19.11.1970

## JUDGMENT

### **Bal RajTuli, J.**

1. This appeal under clause 10 of the Letters Patent is directed against the judgment of a learned Single Judge of this Court passed on September 25, 1968, in C.W. 1067 of 1967. The writ-petitioners had prayed for the quashing of the order of the Additional Director, Consolidation of Holdings, Haryana, at Gurgaon, dated December 30, 1966, on the ground that it had been passed without issuing any notice to them or affording them an opportunity of hearing although it affected their rights in the land and thus, the proviso to Section 42 of the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948 (hereinafter referred to as the Act), was violated. The learned Single Judge found force in this submission and quashed the impugned order. He further remanded the case to the Additional Director for redecision on merits.
2. The admitting note of the Bench admitting the Letters Patent appeal shows that it was stated by the appellants that the respondents, that is, the writ-petitioners, got into possession of the land after the impugned order of the Additional Director under Section 42 and there was no occasion to give them notice of the application. At the hearing of the appeal before us, it has been admitted that the respondent-writ petitioners were in possession of the land when the order was made by the Additional Director under Section 42 of the Act. The plea that has been put forward is that the land had not been allotted to them and they had taken forcible possession of the land. In the return filed by the State it was stated that they had got into the possession as tenants-at-will under the Gram Panchayat. In view of these facts, we are of the opinion that the said respondents were parties interested in the decision of the application under Section 42 of the Act, and a notice had to be given to them to appear and show cause against the granting of the application.
3. The learned counsel for the appellants has, however, submitted that the words "parties interested" in the proviso to Section 42 of the Act, only relate to the rightholders and not the tenants or other persons in possession of the land otherwise than as rightholders. We regret our

inability to agree to that submission. The words "parties interested" in the proviso mean persons whose rights of ownership of possession or any other rights in the land will be effected by the adjudication under Section 42 of the Act. The reason is that no order adverse to the interest of any person whatever can be made without issuing notice to him and affording him an opportunity of being heard and that is the purpose and the intention of the proviso. It cannot be confined only to the rightholders. The tenants have also a right and to secure that, in case of any other land being allotted to the landowner under whom they are tenants, their rights in that land are protected and that the land allotted in lieu of the land going to be taken away from them is such a land which is cultivable and their interest as tenants will not in any way suffer. The learned Judge has not decided the merits of the case which he has left to the Additional Director to decide afresh in the presence of the writ-petitioners. No fault can, therefore, be found with that order. We accordingly find no merit in this appeal and dismiss the same with costs. Counsel's fee Rs. 100.00.

Appeal dismissed.