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C.A.No. 5435 OF 1998  
ITEM No.107

Court No. 9

SECTION IV

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

Civil Appeal No.5435/1998

GRAM PANCHAYAT OF VILLAGE THAKARWAL Appellant (s)

VERSUS

ADDL.DIRECTOR OF CONSOLIDATION OF HOLDINGS  
& ORS. Respondent (s)

( With Office Report )

Date : 09/03/2004 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SHIVARAJ V. PATIL  
HON'BLE MR. JUSTICE D.M. DHARMADHIKARI

For Appellant (s)  
Mr.Kumar Rajesh Singh,Adv.for  
Ms.Niranjana Singh,Adv.

For Respondent (s)  
Mr.A.K. Panda,Sr.Adv.,  
Mr.S.K. Sabharwal,Adv.

UPON hearing counsel the Court made the following

O R D E R

Heard the learned counsel for the parties for about 40 minutes. The appeal is allowed, impugned order is set and the matter is remitted to the High Court for decision by a reasoned order.  
No costs.

(Vijay Kumar Sharma) (Shelly Sen Gupta)  
AR cum PS to Hon.Judge Court Master

Signed order is placed on the file.

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.5435 OF 1998

GRAM PANCHAYAT OF VILLAGE THAKARWAL ..Appellant

Versus

ADDL.DIRECTOR OF CONSOLIDATION OF HOLDINGS & ORS...Respondents

O R D E R

The following order passed by the High Court in C.W.P.No.17280/96 is under challenge in this appeal:-

"After hearing learned counsel for the petitioner, we do not find any ground to interfere with the impugned order. Dismissed."

The appellant-Gram Panchayat filed the aforesaid writ petition before the High Court assailing the validity and correctness of the order dated 3.7.1996 passed by the Additional Director of Consolidation of Holdings, Punjab at Mohali. The private respondents filed a petition under Section 42 of the Consolidation Act challenging the Consolidation Scheme and repartition after inordinate delay of several years. In the writ petition besides other grounds the appellant specifically contended that the Additional Director of Consolidation was not right and justified in allowing the application filed by the private respondents under Section 42 of the Consolidation Act condoning the delay of 36 years merely on the ground that no period of limitation is prescribed under the Act. The appellant had raised other grounds in the writ petition but unfortunately the High Court disposed of the writ petition summarily by the aforesaid order extracted above.

The learned counsel for the appellant contended that the High Court should have examined the contentions raised by the appellant on merits including the question whether the Additional Director of Consolidation should have entertained the application filed by the private respondents after a period of 36 years. Even in the absence of any period prescribed for filing an application under Section 42, the private respondents ought to have approached the authorities within a reasonable period. In this regard, the learned counsel placed reliance on the following decisions of this Court (1) Gram Panchayat, Village Kanonda, Tehsil Bahadurgarh, District Rohtak through its Sarpanch Vs. Director, Consolidation of Holdings, Haryana Chandigarh & Ors. {1989 Supp.(2) SCC 465}, (2) Gram Panchayat, Kakran Vs. Additional Director of Consolidation & Anr., { 1997 (8) SCC 484} and (3) Gram Panchayat Nurpur vs. State of Punjab & Ors. {1998 (8) SCC 672}.

Per contra, learned counsel appearing for the private respondents submitted that the High Court though dismissed the writ petition in limine, the said order can be sustained having regard to the facts and circumstances of the case. According to the learned counsel the order passed by the Additional Director of Consolidation is perfectly valid having regard to the facts found in the case.

In the light of the contentions raised in the writ petition and looking to the order passed by the Additional Director of Consolidation, particularly, on the question of limitation, we are of the view that the High Court should have examined the writ petition on the merits of the contentions raised by a reasoned order. In this view, without expressing any opinion one way or the other on the merits of the respective contentions, we allow the appeal, set aside the impugned order and remit the writ petition to the High Court for consideration and decision on merits of the various contentions raised in the writ petition. Parties are at liberty to urge all contentions before the High Court. The appeal is allowed accordingly. No costs.

.....J  
(Shivaraj V. Patil)

New Delhi,.....J  
March 9,2004(D.M. Dharmadhikari)