

(1997) 03 P&H CK 0133
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 5294 of 1982

Gram Panchayat	Vs	APPELLANT
Additional Director, Consolidation and Another		RESPONDENT

Date of Decision : 03-03-1997

Acts Referred:

East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948 —
Section 42

Citation : (1997) 116 PLR 627 : (1997) 3 RCR(Civil) 683

Hon'ble Judges : T.H.B. Chalapathi, J

Bench : Single Bench

Advocate : J.S. Khaira, for the Appellant; None, for the Respondent

Final Decision : Allowed

Judgement

T.H.B. Chalapathi, J.—The Gram Panchayat, Khairpur, filed this writ petition to quash the order of the Additional Director, Consolidation, Punjab dated 24.9.1982.

2. The second respondent filed an application before the Additional Director u/s 42 of the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948 (hereinafter called the "Act") for repartition of the land. To that application filed by the second respondent, Sahi Ram and Hari Ram were parties. The Consolidation Officer came to the conclusion that a repartition took place earlier in March, 1964 and the possession of the disputed land was with the respondent named in the petition and the petitioner had no case vis-a-vis the respondents in the application, but curiously the Additional Director, Consolidation, in his order observed as follows:-

"However the Gram Panchayat of the village has no objection to the grant of land to the petitioner from the land of the Panchayat deh. The petition can be accommodated by giving land from the Gram Panchayat and thereby his grievance can be mitigated. The Gram Panchayat was impleaded as a party by the petitioner and Devi Lal, member Panchayat of that Panchayat was duly

served. His thumb impression exists on the back of the summons. However, he has not turned up. Hence ex-parte proceedings were taken against the Gram Panchayat. I feel that the ends of justice would be met if the petitioner is accommodated in the land of the Gram Panchayat."

3. Thus, it is clear that the Gram Panchayat was not properly served with the application. The Gram Panchayat has to be served through the Sarpanch only. A member of the Gram Panchayat cannot represent the whole body of the Panchayat. In the absence of any notice served on the Sarpanch of the Gram Panchayat, no order adverse to the Gram Panchayat could have been passed by the Additional Director. When admittedly, the Gram Panchayat was not served and Devi Lal, a member of the Panchayat on whom the notice was alleged to have been served did not appear before the Additional Director, it is not known as to how the Additional Director came to the conclusion that the Gram Panchayat of the Village has no objection to the grant of land to the petitioner from the land of the Panchayat deh. Thus it is evident that there is no consent given by the Gram Panchayat to give any of its land to the 2nd respondent. The order of the Additional Director is contrary to the facts and law and, therefore, is liable to be set aside.

4. The writ petition is, accordingly, allowed and the order of the Additional Director, Consolidation, Punjab, dated 24.9.1982 is hereby set aside. However, there will be no order as to costs.