
(1995) 05 P&H CK 0126
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 937 of 1981

Jaswant Singh

APPELLANT

Vs

The State of Punjab and Others

RESPONDENT

Date of Decision : 12-05-1995

Acts Referred:

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

Citation : (1995) 111 PLR 91

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

Bench : Single Bench

Advocate : G.S. Punia, for the Appellant; Manjit Singh, A.A.G., for the
Respondent

Final Decision : Allowed

Judgement

T.H.B. Chalapathi, J.—This Writ Petition is filed for issuance of a writ of Certiorari to quash the orders of the Additional Director, Consolidation of Holdings, Jalandhar, dated October 8, 1980.

2. The petitioner filed an application u/s 42 of the East Punjab Holdings (Consolidation & Prevention of Fragmentation) Act, 1948 (hereinafter referred to as the Act) for correction of the entries in the revenue records. According to the petitioner, Khasra No. 2014 as recorded in the revenue records, was a gair mumkin rasta and during the consolidation proceedings, Khasra No. 332 measuring 1 kanal 13 marlas was carved out of old Khasra No. 2014 and it was shown as barani in the consolidation proceedings. His further case is that new Khasra No. 332 is continued to be used as a path. Therefore, the necessary changes in the revenue records be effected. The Additional Director, Consolidation of Holdings, Jalandhar, by his order dated June 6, 1978, directed the Consolidation Officer to hear both the parties afresh and see if old field No. 2014 was to be reserved as path in accordance with the provisions of the Consolidation Scheme and, if so, he should make necessary correction in the

record and make other adjustments also in order to make-up the deficiency of the respondent, if any, which would be caused to them after taking out the path from their due area.

3. In pursuance of the order of the Additional Director, dated June 6, 1978, Consolidation Officer, Jalandhar, has taken up the matter and after hearing the parties directed that Khasra No. 332 be shown as gair mumkin rasta instead of barani in the revenue records. Aggrieved by this order, respondents Nos. 3 and 4 filed a petition u/s 42 of the Act before the Additional Director, Consolidation of Holdings, Jalandhar, who by his impugned order dated October 8, 1980, held that the order of the Consolidation Officer is beyond jurisdiction and accordingly set aside the same. Aggrieved by the said order of the Additional Director, the petitioner filed this Writ Petition. Respondents Nos. 3 to 7 remained ex-parte.

4. I have heard the learned counsel for the petitioner and the learned A.A.G., Punjab and perused the record.

5. On going through the record, it is clear that old Khasra No. 2014 which comprised of 4 kanals 5 marlas was shown as gair mumkin rasta in the jamabandis and other revenue records prior to the consolidation of holdings that took place in the year 1964. There is no dispute that new Khasra No. 332 measuring 1 kanal 13 marlas was carved out of the old Khasra No. 2014 comprising of 4 kanals 5 marlas. Khasra No. 332 was shown as barani land that means the land is not subject to irrigation and no irrigation facilities have to be provided for the said land and that the land is barren. The record also shows that the said land comprised in new Khasra No. 332 is still being used as path. The Consolidation Officer in his order dated June 2, 1979 categorically observed that old Khasra No. 2014 was mentioned as gair mumkin rasta and both the parties agreed that the area of path which is within the abadi has been kept reserved. He further observed that a mistake has been committed while preparing the record and Khasra No. 332 was wrongly mentioned as barani. He further stated that by correcting the mistake there has not been any decrease in the area of respondents Nos. 3 and 4. Therefore, it is clear that Khasra No. 332 which has been carved out from the old Khasra No. 2014 is being used as rasta by the parties concerned and there is a mistake while making the entries in the revenue records during the course of consolidation proceedings. Such a mistake can be corrected to bring the record in conformity with the user of the land, i.e. precisely the reason why the Additional Director in his earlier order dated June 6, 1978, directed the Consolidation Officer to examine the matter afresh and after hearing the parties to make the necessary correction in the records if it was shown that Khasra No. 2014 was recorded and used as gair mumkin rasta. Therefore, the subsequent order of the Additional Director dated October 8, 1980, holding that the Consolidation Officer has no jurisdiction to change the record cannot be upheld. It is not the question of changing the jamabandis after the consolidation proceedings reached finality. It is only the Consolidation Officer who can make correction in the revenue records during the course of

consolidation proceedings. Such a mistake can certainly be corrected at any time as it does not affect the user of land or the nature of the land already recorded prior to the consolidation proceedings. The parties need not to be driven to the Civil Court for the correction of jamabandis. I am, therefore, of the opinion that the impugned order of the Additional Director, Consolidation Holdings, Jalandhar, dated October 8, 1980, is liable to be set aside.

6. The Writ Petition is accordingly allowed. The order of the Additional Director, Consolidation of Holdings dated October 8, 1980, is hereby quashed. There will be no order as to costs.