
(2005) 02 P&H CK 0044
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 4912 of 1984

Lakhbir Singh

APPELLANT

Vs

Additional Director, Consolidation of Holdings and Another

RESPONDENT

Date of Decision : 23-02-2005

Acts Referred:

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

Citation : (2005) 140 PLR 719 : (2005) 3 RCR(Civil) 787

Hon'ble Judges : Jasbir Singh, J

Bench : Single Bench

Advocate : Amarjit Markan, for the Appellant; B.P. Singla, A.A.G. and J.S. Chahal, for the Respondent

Final Decision : Allowed

Judgement

Jasbir Singh, J.—Prayer made in this writ petition is to quash orders dated July 12, 1984 (Annexure P-6) and September 12, 1984 (Annexure P-8 respectively) vide which path was ordered to be provided to the land of respondent No. 2.

2. Some admitted facts, which need to be mentioned here are that after repartition in the year 1954, consolidation proceedings came to an end in the Village Dhudike. At the time of repartition, respondent No. 2 was not a co-sharer in the village. He purchased land from Duli vide sale deed dated December 3, 1959. He then moved an application u/s 42 of the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948 (for short the Act) stating that the land allotted to him; during consolidation was not aligned with a service passage. It was prayed that passage be provided to his kurra. Vide order dated July 12, 1984 (Annexure P-6) that application was allowed without hearing the petitioner and the case was remanded to the Consolidation Officer with a direction that 2 karams passage, if possible be provided to the land of the respondent No. 2 from Killa No. 1 14/14.17. 3. Thereafter, petitioner moved an application u/s 42 of the Act for setting aside ex parte order (Annexure P-6).

That application was disposed of vide order dated September 12, 1984 (Annexure P-8) with a direction to the Consolidation Officer to provide passage to respondent No. 2 after hearing the petitioner.

4. It is also an admitted fact that during consolidation proceedings, Duli, predecessor-in-interest of respondent No. 2, was allotted land in kurra, depicted with letters A.J.B.C.D.E.G.H.I, in site plan Annexure P-2, Out of said land allotted to Dull, respondent No. 2, had purchased the land shown in yellow colour in the site plan Annexure P-2, It is further an admitted facts that so far as original kurra allotted to Duli is concerned, that land was connected with a service passage, which was running along side the minor canal.

5. Orders Annexures P-6 and P-8 have primarily been challenged on the ground that since the petitioner was not a co-sharer at the time of consolidation proceedings, he had no right to move application u/s 42 of the Act.

6. This Court is of the opinion that the contention raised is squarely covered by the ratio of judgment of this Court in Harjit Singh and Ors. v. State and Ors. (1997)115 P.I.R. 542, and Division Bench judgments of this Court in Banarsi Dass and Ors. v. Director, Consolidation of Holdings, Haryana and Ors. 1995 PLJ 314 and Jaswinder Kaur and Others Vs. Additional Director, Consolidation and Others, .

7. It is necessary to be noticed here that it is an established law by now that respondent No. I, while exercising powers u/s 42 of the Act, has jurisdiction only to correct any defect in the order passed, scheme prepared /confirmed or repartition effect. While passing order Annexure P-6, none of the defects, as mentioned above, were referred to. Furthermore, no ground had been mentioned by respondent No, I to entertain the appeal of the respondent No. 2 after such a long delay, Repartition took place in the year 1954. Application u/s 42 of the Act was moved by the respondent No. 2 in the year 1984, without furnishing any explanation for intervening period.

8. In view of reasoning given above, this writ petition succeeds and impugned orders Annexure P-6 and P-8 are quashed leaving the parties to bear their own costs.