
(1997) 05 P&H CK 0107
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 5587 of 1982

Major Gurbax Singh

APPELLANT

Vs

Additional Director, Consolidation of Holdings, Pb

RESPONDENT

Date of Decision : 01-05-1997

Acts Referred:

Citation : (1997) 1 PLJ 602 : (1997) 3 RCR(Civil) 188

Hon'ble Judges : H.S.Bedi, J

Advocate : Mr. Atul Sharma, Advocates., Mr. Vinod Sharma, Advocates for appearing Parties

Judgement

H.S. Bedi, J. (Oral)

1. The petitioner is a landowner of village Phuglana, Tehsil and District Hoshiarpur. Consolidation of Holdings under the provisions of the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948 (hereinafter referred to as the 'Act') were completed in the village in the year 1955 and a path No. 261 was carved to provide access to the Kurras of the respective shareholders. This path ran from South to North and shown as AXB in the site plan (Annexure P1) had been used by the villagers for years thereafter and it was for the first time in the year 1973 that Lachhman Singh, father of respondent Nos. 2, 7, 8 and 9 who was the Sarpanch as also the President of the Consolidation Advisory Committee, objected to its demarcation. On account of his involvement with the Consolidation Advisory Committee, Lachhman Singh was able to get the alignment of the path changed from AXB to XYZLMNO as shown in Annexure P1. Faced with this situation, the petitioner and his covillagers moved an application before the Deputy Commissioner and thereafter under section 42 of the Act before the Director of Consolidation of Holdings praying that the path AXB should be restored. The respondents contested the application on various grounds, but the application was ultimately allowed vide Annexure P2 dated 21st July, 1978. It is the admitted position that but for Maya Devi respondent No. 5 in this writ petition, all the respondents were parties

before the Director. Baldev Singh respondent No. 2 thereafter filed a writ petition No. 3649 of 1978 in the court challenging the order dated 21.7.1978 (Annexure P2), but the same was dismissed by a Division Bench of this Court by a full fledged speaking order dated September 26, 1978 (Annexure P3). On the dismissal of this writ petition Ram Lubhasya respondent No. 3 filed writ petition No. 335 of 1979 impugning the same order and this too was dismissed after notice on February 14, 1979 vide order Annexure P4 to the petition. Still persisting in his efforts Baldev Singh respondent No. 2 manoeuvred a writ petition at the instance of the Gram Panchayat to challenge the order Annexure P2 but this petition too was dismissed on February 13, 1980 vide order Annexure P5 to the petition and a Letters Patent Appeal filed thereafter was also dismissed in limine on 22nd April, 1980 vide Annexure P6. Baldev Singh respondent No. 2 thereafter filed a civil suit impugning the order Annexure P2 and this too was dismissed vide order Annexure P7 dated February 27, 1982. During the pendency of the civil suit respondent No. 2 Baldev Singh had filed an application (Annexure P8) before the Director Consolidation, in which Ram Kumar, Bhagwan Dass, Maya Devi, the Gram Panchayat and Joginder Singh, Kartar Singh and Amarjeet Singh, brothers of Baldev Singh, were arrayed as respondents. This matter came up before the Additional Director, Consolidation of Holdings who noted that the respondents in that application had no objection if the path AXYLMNO was restored. Vide order Annexure P9 the Director accordingly made the necessary change in the alignment of the path. Aggrieved thereby the present petition has been filed challenging the order Annexure P.9.

2. Mr. Vinod Sharma, the learned counsel appearing in support of the petition has raised only one point before me. He has urged that this Court had repeatedly upheld the order of the Director dated July 21, 1978 (Annexure P2) and it was not open to the successor Director to make any change in the said order, the more so as the said order had, in fact, been passed in collusion between the parties and all the necessary parties in the earlier litigation had not been impleaded in Annexure P8. There appears to be merit in the stand of the learned counsel. The facts as enumerated above, clearly show that the order dated 21.7.1978 Annexure P2 had been challenged in three writ petitions, as also in a civil suit and on each occasion without success. It was only thereafter that an application (Annexure P8) was made by Baldev Singh respondent No. 2 and as is apparent, only such persons were arrayed as respondents who had been the writ petitioners in the earlier writ petitions which had all been dismissed. The order Annexure P9 was, therefore, obviously as a result of collusion on the part of the applicant and the respondents in the application.

3. This petition is accordingly allowed, the order Annexure P9 is quashed and it is directed that the path AXB shown in the site plan Annexure P1 to the petition, be restored. It is further directed that the order of this court will be implemented within fifteen days from the date that a certified copy of this order is supplied to the authorities concerned. No costs.