
(2000) 11 P&H CK 0013

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 14426 of 1998

Piara Singh

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision : 08-11-2000

Acts Referred:

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

Citation : (2001) 4 RCR(Civil) 28

Hon'ble Judges : K.S. Garewal, J;Jawahar Lal Gupta, J

Bench : Division Bench

Advocate : Mr. Kanwaljit Singh, for the Appellant; Mr. Sanjiv Gupta and Mr. Bachittar Singh Giani, for the Respondent

Judgement

Jawahar Lal Gupta, J.—The petitioners filed a petition u/s 42 of the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948. It was inter alia prayed that the land belonging to the proprietary body of the village should be partitioned. Vide order dated May 4, 1995 the Additional Director accepted the petition with the observation that "the land in dispute belongs to the proprietary body of the village and this land is not being used for any common purposes and also for the benefit of the village community." In view of this finding he directed the Consolidation Officer to partition the land "as per the share of the right holders....". Aggrieved by the order, respondents No. 5 to 7 filed a petition pointing out that the order has been passed without any notice to them. Vide order dated February 18, 1998 the Director of Consolidation has accepted the application and set aside the order passed on May 4, 1995. It has been found that the applicants viz. respondents No. 5 to 7 were in possession of the land. Thus, they had a right to be heard. Aggrieved by this order the petitioners have approached this Court through the present writ petition.

2. The petitioners allege that respondents No. 5 to 7 were in fact represented in proceedings which culminated in the order dated May 4, 1995. In any event, it is

urged on their behalf that the land belonging to the proprietary body which is not being used for commons purposes has to be partitioned and restored to the land owners. Thus, the said respondents can have no cause for grievance.

3. A written statement has been filed on behalf of respondents No. 8 to 13, 15, 16, 20 and 22. Respondents No. 5 to 7 have not filed any reply.

4. After some argument, the learned Counsel for the parties have arrived at a consensus. They are agreed that the land which belongs to the village proprietary body be allowed to be partitioned. They are further agreed that such land as is recorded in the ownership of the Rehabilitation Department/the Custodian be excluded. The counsel pray that the respondent authorities be directed to partition the Bachat land in accordance with the share of the land owners including the petitioners. They prayed that the writ petition be disposed of in these terms.

5. Ordered accordingly.

6. In view of the above, the impugned order, a copy of which has been produced as Annexure P4 with this writ petition, is set aside.

7. The writ petition is disposed of with a direction that the Bachat land shall be partitioned in accordance with the share of the land owners by the Consolidation Authorities. The land recorded in the name of the Custodian/the Rehabilitation Department shall be excluded. The needful shall be done within three months. No costs.

8. Petition disposed of.