

(1994) 02 P&H CK 0001

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 15301 of 1992

Ran Vir Singh

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision : 08-02-1994

Acts Referred:

Citation : (1994) 2 CurLJ 224 : (1994) 3 LJR 99 : (1994) PLJ 180 : (1994) 2 RRR 217

Hon'ble Judges : G.R.Majithia, J and S.K.Jain, J

Advocate : P.S. Kadian, DAG, Har., Mrs. Gurmit Kaur, Advocate, Mr. A.S. Cheema, Senior Advocate, Advocates for appearing Parties

Judgement

G.R. Majithia and S.K. Jain, JJ.—The judgment disposed of Civil Writ Petition No. 15301 of 1992 and Civil Writ Petition No. 5146 of 1993.

A challenge has been made to the Consolidation schemes for village Atela Khurd, Had Bast No. 87, and village road Had Bast No. 52, District

Bhiwani, on identical grounds.

At the time the hearing, learned counsel for the petitioner's submitted that he would address arguments of Civil Writ Petition No. 15301 of 1992

and the same be treated in the connected writ petition.

2. A reference to brief facts is necessary to appreciate the submissions made at the Bar :

The East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948 (for short, the Act) was enacted for consolidation of

Agricultural holdings and assignment of reservation of land for common purposes of villages. Notification under subsection (1) of Section 14 of the

Act is issued by the State Government expressing its intention of publishing a scheme for consolidation of holdings in any estate of group of estates.

In Civil Writ Petition No. 153012 of 1992, notification under Section 14(1) was published in the Government Gazette on March 21, 1989.

Proclamation was made in the village on May 25, 1989. Advisory Committee was constituted for preparation of the draft scheme. The draft

scheme was duly published. The right holders filed 85 objections to the draft scheme before the Settlement Officer, Consolidation of Holdings.

These were disposed of by him in accordance with the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Rules, 1949 (for

short, the Rules). The scheme was approved on February 13, 1992. It was duly published in the manner prescribed. The re partition proceedings

under Section 21(1) of the Act were completed on October 8, 1992 by the Consolidation Officer. Demarcation of the new holdings could not

take place for want of cooperation of some of the rightholders. After the demarcation is made under Section 21(2) of the Act, the aggrieved

person has got right of appeals under subsections (3) and (4) of the Section 21 of the Act.

3. Learned counsel for the petitioners made the following submissions :

(i) Declaration under subsection (1) of Section 17 of the Act was not published in the manner prescribed.

(ii) Rules 4 and 5 of the Rules were not complied with.

4. In the written statement filed on behalf of the State of Punjab through the Director, Consolidation of Holdings, Punjab, a categorical stand has

been taken that the declaration regarding amalgamation of roads, paths and other common purposes of land was made by the Consolidation

Officer in the general gathering of right holders of village Atela Khurd on March 29, 1990. A perusal of the scheme also indicates that the

declaration as enjoined under subsection (1) of the Section 17 had been duly published along with the draft scheme in the revenue estate. Thus, the

first submission of the learned counsel has no merit.

5. Rule 4 of the Rules deals with the preparation of the scheme of Consolidation. It says that after the State Government has expressed its intention

under subsection (1) of Section 14 of the Act to make a scheme of consolidation in an estate of group of estates, the Consolidation Officer shall

visit the revenue estate, after giving reasonable notice of his visit to the landowners and nonproprieters thereof, and in consultation with them will

constitute a committee for the purpose of preparing the scheme of consolidation. The objection to the scheme is on the ground that the non

proprieters were not associated as members of the Committee in preparation of the scheme of the Consolidation. The respondents have placed on

record a copy of the resolution dated November 4, 1989, vide which the right holders nominated members of all the communities including

schedules castes and backward classes in the committee. The resolution reads thus :

Today a meeting of the rightholders of the village was held which the nonproprieters (Gair Hakdaran) also attended. The right holders elected the

members unanimously in which the members of all the communities were given representation. The members of scheduled castes and backward

classes were also included. The following members were elected :

Sr.No.

Name of Members

Post

1.

Umed Singh son of Chandgi Ram

Sarpanch

2.

Kanshi Ram s/o Harphul

Member Panchayat

3.

Tej Ram s/o Data Ram

Member Panchayat

4.

Ram Sarup s/o Pokar

Member Panchayat

5.

Mir Singh s/o Indraj

Nai

6.

Attar Singh s/o Subhash Chand

Harijan

7.

Sheyogeri w/o Amar Singh

Mahla Panch

8.

Subh Ram s/o Data Ram

Member Mashavarati

9.

Satbir Singh s/o Sultan

Member Mashavarati Committee

10.

Inder s/o Richpal

Member Mashavarti Committee

11.

Chandgi s/o Chhailu

Member Mashavarti Committee

12.

Ajeet s/o Het Ram

Member Mashavarti Committee

13.

Bhagwan Singh s/o Nihala

Member Mashavarti Committee

14.

Amar Singh s/o Ram Chand

Member Mashavarti Committee

15.

Chandgi Ram s/o Surja Ram

Member Mashavarti Committee

16.

Tej Ram s/o Tirkha

Member Mashavarti Committee

17.

Bharpur s/o Mahanta

Member Mashavarti Committee

18.

Shuv Ram s/o Tek Chand

Member Mashavarti Committee

19.

Amar Singh s/o Beg Raj

Member Mashavarti Committee

20.

Har Narayana s/o Nanga Ram

Member Mashavarti Committee

21.

Ran Singh s/o Mula Ram

Member Mashavarti Committee

22.

Kidara s/o Loku Ram

Member Mashavarti Committee

23.

Rati Ram s/o Ram Karan

Member Mashavarti Committee

24.

Ran Singh v. Hira

Member Mashavarti Committee

25.

Subha Chand s/o Sheo Ram

Member Mashavarti Committee

26.

Duli Chand s/o Ramji Lal

Member Mashavarti Committee

27.

Daya Nand s/o Ram Sarup

Member Mashavarti Committee

28.

Jagdish s/o Jug Lal

Member Mashavarti Committee

29.

Subha Chand s/o Shri Chand

Member Mashavarti Committee

30.

Banwari s/o Pirdan

Member Mashavarti Committee

31.

Mange s/o Dharam Chand

Member Mashavarti Committee

32.

Sukh Lal s/o Hira

Member Mashavarti Committee

33.

Amar Singh s/o Lok Ram

Member Mashavarti Committee

34.

Ram Sarup s/o Pirdan

Member Mashavarti Committee

A reading of the resolution reveals that 34 persons belonging to different communities were nominated as members of the committee.

6. The learned counsel then submitted that Rule of the Rules was not complied with. Thus rule says that the scheme of consolidation shall contain

the statement with respect of classification of land for the purpose of consolidation and the exchange ratio for conversion of one class into another,

a statement of valuation of lands wells, trees, etc. to be exchanged showing the compensation to be given or received by the holders concerned.

The exchange ratio for conversion of land from one class into another has been provided under the scheme of consolidation. The scheme says that

for the purpose of carrying out the consolidation, the price of land has been divided into four categories, viz. 8, 6, 4, 2. The mode of measurement

of land has also been provided. The contention is belied by the perusal of the scheme. We find that the objections to the scheme have been made

only with a purpose to delay the consolidation proceedings. The petitioner, if aggrieved, have got an equally efficacious remedy by way of a

petition under Section 42 of the Act and regarding the reparation they have got a right of appeals under Section 21(3) and 21(4) of the Act. We

do not find any infirmity either in the notification under Section 14 of the Act or the scheme of consolidation.

7. For the reasons stated above, the writ petition fail and are dismissed.