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**(1989) 11 P&H CK 0020**  
**In the Punjab And Haryana At Chandigarh**  
**Case No : Civil Writ Petition No. 8198 of 1989**

Surjit Singh

APPELLANT

Vs

Additional Director, Consolidation of Holdings and Others

RESPONDENT

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**Date of Decision :** 24-11-1989

**Acts Referred:**

East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948 —  
Section 42(3)

**Citation :** (1990) 97 PLR 627

**Hon'ble Judges :** G.R. Majithia, J

**Bench :** Single Bench

**Advocate :** H.S. Kathuria and Y.P. Bhandari, for the Appellant; M.L. Saini, for Respondent Nos. 7 to 10, for the Respondent

**Final Decision :** Allowed

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## Judgement

G.R. Majithia, J.—The Petitioners have impugned the order of the Additional Director, Consolidation of Holdings, Punjab, Chandigarh (Respondent No. 1) dated June 24, 1988 (copy Annexure P-3, to writ petition) principally on the ground" that the order was passed without affording an opportunity of hearing to them.

2. In order to appreciate the submissions made it is necessary to state a few relevant facts.

3. Gram Panchayat, Mard Khera (Respondent No. 4) filed a petition u/s 42 of the cast Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948 (for short, the Act) against the order of the Consolidation Officer dated September 11, 1979 and the same was accepted by the Additional Director, Consolidation of Holdings, Punjab on January 25, 1980 The order of the Consolidation Officer was set aside and the case was remanded to him for deciding the matter afresh. The Consolidation Officer vide his order dated June 15, 1981, made various changes in the task affecting the various right holders of the village. The matter was again taken to respondent No. 1, who vide his order

dated December 2, 1982, allotted the land out of the area of Respondent No. 4 to respondents 7 to 10. Respondent No. 4 again took the matter to respondent No. 1, who vide his order dated October 26, 1983, remanded the case to the Consolidation Officer. After remand, the Consolidation Officer decided the case afresh on December 16, 1986 and disturbed the holdings of 10 right holders, including the petitioners. The petitioners were not made parties either in the petition u/s 42 of the Act or in the proceeding taken after remand by the Consolidation Officer. The right holders who were affected by the order of the Consolidation Officer dated December 16, 1986, filed a fresh petition u/s 42 of the Act and same was dismissed by respondent No. 1 on September 4, 1987. The orders of the Consolidation Officer, dated December 16, 1986 and respondent No. 1 dated September A, 1987 could not be executed.

4. Respondent No. 8 moved petition u/s 42 of the Act before respondent No. 1 on the ground that the area which was with- drawn under the order dated December 16, 1986 of Consolidation Officer, in the records of right has been wrongly shown in the names of Amar Singh, Such Singh and Sunder Singh and the entire were not recorded in the names of right-holders in whose favour the Consolidation Officer had passed order on December 16, 1986. Respondent No. 1 vide his order June 24, 1986 (Annexure P-3) accepted the petition and ordered the necessary changes

5. Learned counsel appearing for the petitioners urges that the order Annexure P-3 had been passed in the absence of the petitioners.

6. Respondents 7 to JO filed their written statement and controverted the allegations made in the writ petition. It was averred that summonses were issued by respondent No. 1 and the Process Server reported that the petitioners had refused to accept service and the summonses were affixed on their residential houses. The respondents did not place on record the certified copies of the summonses issued by respondent No. 1 and the report of the Process Server made there on Respondent No. 1 in his order did not indicate that he was satisfied that the petitioners were validly served in the petition u/s 42 of the Act. In the absence of any specific order to the effect that the petitioners were validly served, the submission of the petitioners has substance. They were the aggrieved party and they ought to have heard by respondent No. 1 before passing any order prejudicial to their interests.

7. Resultantly, the writ petition is allowed and the order dated June 24, 1988 (Annexure P-3) is set aside and respondent No. 1 is directed to dispose of the case afresh after hearing the counsel for the parties. The parties through their counsel are directed to appear before respondent No. 1 on December 21, 1989. The parties will bear their own costs.