

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No. 8863 of 2018
Reserved on: 21.08.2023
Date of decision: 25.08.2023

RAJINDER SINGH AND ORS.

-PETITIONERS

VERSUS

DIRECTOR CONSOLIDATION AND ORS.

-RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Mr. Vikram Singh, Advocate
for the petitioners.

Mr. Lokesh Chander Aggarwal, Senior Standing Counsel
for respondents No.1 and 2- U.T., Chandigarh.

SURESHWAR THAKUR, J.

1. Through the instant writ petition, the petitioners challenge the makings of Annexure P-11, as became drawn by co-respondent No.2, thus through his recouring the provisions, as embodied in Section 42 of The East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948 (hereinafter referred to as the 'Act of 1948').

2. Undisputedly, the consolidation operations qua the Mohal concerned were concluded in the year 1956. Moreover, it is also not disputed amongst the contesting litigants concerned, that the Naksha Haqdarwar, which occurs at Page No.101 of the paper book, thus depicts a truthful echoing qua an area measuring 213 Kanals 13 Marlas, thus therethroughs becoming allotted to the predecessor(s)-in-interest of the petitioners by the consolidation officer concerned. No wrangle also emerges in respect of the Khatauni

Paimaish, as exists at Page No.117 of the paper book.

3. Be that as it may, the consolidation officer concerned, after carrying demarcations and measurements of the land(s), as held by the predecessor(s)-in-interest of the petitioners, rather came to a conclusion, that the lawful allottable area to the petitioners is carried in the dimensions of 207 Kanals 19 Marlas.

4. Resultantly, the petitioners had earlier accessed this Court through theirs instituting CWP-7399-1987. On the writ petition (supra), this Court, on 27.08.2013, had passed the hereinafter extracted directions upon the respondent(s) concerned, directions whereof are extracted hereinafter.

“In the circumstances, we dispose of this writ petition. Order Annexure P-8 is quashed and matter is remitted to the Director Consolidation, UT, Chandigarh, to decide it afresh.

When passing order, concerned officer is directed to look into the consolidation record including Khatoni Pamaish, Naksha Hakdawat and resolutions of allotments, vide which land was allotted to the petitioners. The said officer will also take into consideration facts given in the report dated 24.3.2011.

If after making reference to all those documents, it is found that there is deficiency with the petitioners, the mistake may be rectified and if to the contrary, it is found that more land has been allotted to the petitioners, than what was due to them, the said area be ordered to be deducted from them. The officer concerned shall pass a detailed order in this regard.”

5. In pursuance to the directions (supra), the impugned Annexure P-11 has been recorded by the authority concerned.

6. This Court, through an order made on 27.02.2023, in the instant writ petition, had keeping in view the larger interest of justice, thus made a

direction upon the respondent(s) concerned to make echoings in the apposite affidavit qua the above stated lands, as became extracted from the joint holdings of the predecessor(s)-in-interest of the petitioners, besides from the other cultivators concerned, thus was carrying an area of 7 Kanals. Furthermore, the said affidavit was also directed to contain speakings, that if the said parcel of land was subjected to acquisition, and that thereby, whether compensation was disbursed to the predecessor(s)-in-interest of the petitioners.

6. In pursuance to the makings of the above made directions, upon, the respondent(s) concerned, a reply on affidavit of Sanyam Garg, HCS, SDM (Central)-cum-Asstt. Director, Consolidation of Holdings, U.T. Chandigarh, became furnished to the writ petition. At page No.8 of the reply (supra) occurs a table, table whereof becomes extracted hereinafter, detailing therein the allottable area to the predecessor(s)-in-interest of the petitioners, and, which is declared to be measuring 223 Kanals 9 Marlas. However, there is also a detailing therein, that the land measuring 15 Kanals 12 Marlas was reverted into the joint khewat. Furthermore, the land which was assigned for “abadi bara”, is detailed therein, to be carrying the dimension of 1 Kanal.

Total Arazi as per Istemal, Hisam Singh etc.	228-11 standard
Beshi at the time of Paimaish (Share of excess/surplus)	0-15
Total	229-6
Munrai Mushtarka Igraj (Land deducted for common purposes)	5K-17M
Total Entitlement	223K-9M
Land Allotted (Naksha Paimaish) (Exact area bahad khewat)	207-19 (page 117/126)
Land given for Abadi Bara Mushtarka Khewat	1 Kanal
(Land given in joint Khewat)	15K-12M
Total Actual Land given	224K-11M

7. Therefore, both in respect of the individual allotable area to the predecessor(s)-in-interest of the petitioners, and, also in respect of the land which reverted into the joint khewat concerned, thus revelations are made at Page No.8 of the reply (supra).

8. The legitimacy of the reservation of land measuring 8 Kanals 16 Marlas for the joint khewat, wherein, the predecessor(s)-in-interest of the petitioners was a joint owner along with the co-khewatdars concerned, is mentioned in paragraph 15 of the reply (supra). The said revelation is stated therein to be a sequel of an amendment to the scheme being made, thus through recourse being made to Section 36 of the Act of 1948. Apparently, since the said amendment has remained unchallenged, therefore, the amendment (supra), as became made by the authority concerned, through its recouring the mandate of Section 36 of the Act of 1948, but acquires conclusive and binding effect, and, if in terms thereof, the impugned Annexure has been passed, thereby necessarily the impugned Annexure also carries an aura of conclusivity and finality.

9. Be that as it may, the present petitioners disputed the allotments in joint khewat, on the ground, that the area 1 Kanal 3 Marlas standard Kanal and 9 Kanals 5 Marlas standard Kanal, despite its being shown in the ownership of the predecessor(s)-in-interest of the petitioners in Khewat No.253 and 255, rather became untenably allotted to the proprietors concerned, whereby, there has been an untenable subtraction or reduction in the areas of land allotable to the predecessor(s)-in-interest of the petitioners. Therefore, there has been a purported under-allotment from the allotable areas of 213-13 standard Kanals to 206-12 standard Kanals.

10. However, the said purported untenable reduction rather is well explicated in paragraph 16 of the reply (supra). The said explication is founded on the factum, that the ownership of the panchayat deh, is in the said khewat/khata. Moreover, it is further explained in the paragraph (supra), that the land measuring 76 Kanals 13 Marlas has been put to acquisition, and, in the year 1967, the land measuring 60 Kanals 13 Marlas has also been acquired against Mutation No.1846. Furthermore, it is also spoken therein, that the land measuring 10 Kanals 18 Marlas has also been put to acquisition, thus in the year 1969, and, that the remaining land in the said khata has also been acquired, thus in the year 2001.

11. Ultimately, it is explained in the reply (supra), that after lawful acquisitions being made of the writ lands, the dimensions of the un-acquired land, as carried in the apposite joint khewat, is in the manner detailed in the table occurring at Page No.11-12 of the reply (supra), table whereof becomes extracted hereinafter.

Khewat/ Khasra No.	Award No.	Khasra No.	Share	Ordinary Area	Standard Area	Compensation status
255 (89/2)	525, dated 30.03.1999	(Total 115K-11M)	1/11	10-12	9-5	Received by the owners (list enclosed)
253 (total 5-9) 21//5/5 21//5/3 22/22 21/27/1	Un- acquired	1-2 0-5 0-12 0-16 ----- 2-15	1/4	0-5.5 0-1.25 0-3 0-4 ----- 0-14	0-4.3 0-0.8 0-2.6 0-3.5 ----- 0-11.5	
253 12//7/2 12//4/3	476, dated 23.03.1993	1-12 1-2 ----- 2-14		0-8 0-5 ----- 0-13	0-7.0 0-4.3 ----- 0-11.3	Land Acquired
273 61	546, dated 25.07.2001	(5-2)	1/11	0-9M	0-7	Land owners has received the compensation

						(list enclosed)
	8, dated 29.03.1967	60-13		5-10	4-2	Compensation amount stands deposited in treasury branch.
	101, dated 05.04.1969	10-18 ----- 76-13		1-0	0-15	Compensation received by the Civil Panchayat through Sarpanch
Total					15-12	

12. Resultantly, the dimensions of the un-acquired land is echoed in the reply (supra) to be about 0 Kanal 11.5 Marlas. Furthermore, the compensation in respect of the acquired lands carried in the dimensions of 10 Kanals 3 Marlas is detailed therein to become received by the petitioners and his predecessor(s)-in-interest one Hisam Singh etc. The compensation in respect of the acquired lands measuring 4 Kanals 2 Marlas is also stated therein to be lying deposited in the treasury concerned for its becoming withdrawn, in accordance with law, by the estate-holders concerned.

13. The upshot of the reply (supra), thus well explaining the purported under-allotment or deficit allotment of lands being made to the petitioners or their predecessor(s)-in-interest, thus constrains this Court to affirm the impugned Annexure, especially when the impugned Annexure is drawn in terms of the amendment to the consolidation scheme being made, through recourse being made to the statutory provisions carried in Section Section 36 of the Act of 1948. Predominantly, when the said adopted recourse by the authority concerned, to make amendment in the consolidation scheme, rather remains unchallenged, thereby but obviously, it carries the apt conclusivity and finality. Resultantly, any reliance placed upon the

unamended consolidation scheme by the learned counsel for the petitioners is but a feebly made reliance thereon.

14. In sequel, this Court finds no merit in the instant writ petition, and, is constrained to dismiss it. Accordingly, the writ petition is dismissed, and, the impugned order is affirmed and maintained.

(SURESHWAR THAKUR)
JUDGE

(KULDEEP TIWARI)
JUDGE

25.08.2023
devinder

Whether speaking/reasoned ? Yes/No
Whether reportable ? Yes/No