

**HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP No.12026 of 1992 (O&M)

Date of Decision: 10.02.2015

Teja Singh

... Petitioner

VS.

Additional Director, Consolidation
of Holdings, Punjab & Ors.

... Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT

HON'BLE MR.JUSTICE RAJ MOHAN SINGH

1. Whether Reporters of local papers may be allowed to see the judgment?

2. To be referred to the Reporters or not?

3. Whether the judgment should be reported in the Digest?

Present: Mr. Vinay Saini, Advocate for the petitioners

Mr. Aman Bahri, Addl. AG Punjab

None for respondents No.3 to 5

SURYA KANT, J. (Oral)

(1) This order shall dispose of CWP Nos.12026 & 12027 of 1992 involving common issues. Facts in brief are taken from CWP No.12026 of 1992. The petitioner impugns the order dated 29.06.1982 (Annexure P2) passed by the Additional Director, Consolidation of Holdings Punjab as also the order dated 25.09.1989 (Annexure P3) of the Consolidation Officer, Jalandhar besides the order dated 21.07.1992 (Annexure P4) of the Additional Director, Consolidation of Holdings, Jalandhar upholding the above-mentioned order of the Consolidation Officer.

(2) The genesis of the *lis* lies in the order dated 29.06.1982 passed by the Additional Director in purported exercise of his powers

under Section 42 of the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948 in a petition filed by the Kabal Singh s/o Bhagat Singh against Kewal Singh s/o Hari Singh and Niranjana Singh s/o Amar Singh. The petitioner Teja Singh s/o Dalip Singh was not impleaded as party to those proceedings. That petition was decided by the Additional Director observing that as per the report dated 21.04.1982 of the Assistant Consolidation Officer, there was a bulk of land reserved for the landless residents during the consolidation proceedings but the same was not allotted to such eligible persons and rather its possession was taken over by residents irrespective of their entitlement. The Consolidation Officer, Hoshiarpur was accordingly directed to scrutinize the record and allot the land to eligible landless residents.

(3) The petitioner's case is that his father was already allotted certain area out of khasra No.50/5 being a non-proprietor, i.e., landless resident of village for manure pits along with 5 marla land within *abadi deh* and that he has been in physical and continuous possession of the said land since it was allotted in the year 1958-59. The Consolidation Officer vide his order dated 25.09.1989 (Annexure P3) determined the claim of landless persons and in that process affected the area of the petitioner's land which was said to have been allotted to his father in the year 1958-59. The petitioner thereafter filed an appeal against the above-stated order but the Additional Director vide

order dated 21.07.1992 (Annexure P4) dismissed the appeal observing that he has no *locus standi*.

(4) This Court vide order dated 03.09.1992 stayed the petitioner's dispossession. That order is still operating.

(5) The Registry report suggests that the registered notices were sent accordingly to which respondent No.3 is reported to have unfortunately passed away whereas respondent No.4 was not found residing at the given address. Their legal representatives have not come forward to seek their impleadment nor they have been impleaded by the petitioner. The matter is pending before this Court from the last more than two decades. The fact of the matter is that the first order (Annexure P2) was passed by the Additional Director without hearing the petitioner as he was not impleaded to those proceedings. As the said order caused adverse effect on the alleged allotment of land made in favour of the petitioner's father as a landless resident of the village in the year 1958-59, we are of the considered view that the petitioner had the *locus standi* to participate in those proceedings and he ought to have been heard before passing an order which adversely affected his rights.

(6) In these circumstances and without expressing any views on merit, we set aside the order dated 29.06.1982 (Annexure P2) to the extent it recites that a bulk of land was reserved for landless or that it was not allotted to such persons and that other ineligible persons have occupied the same, and remit the matter to the authority exercising

the powers of Director, Consolidation for afresh adjudication of the rights of the landless persons who might be entitled to allotment of land earmarked for them in the Consolidation Scheme. Needless to say that the right of deceased respondent(s) or their successor(s)-in-interest or of any other landless person to seek such allotment shall remain unaffected and the authorities shall have to re-determine their respective claims after observing the principles of natural justice

(7) Similarly, if it is found that a piece of land was allotted to the petitioner's father as a landless person in the year 1958-59, namely, before the Consolidation proceedings took place, such allotment shall remain unaffected.

(8) Parties are directed to appear before Director, Consolidation on 16.03.2015.

(9) Let a copy of this order be handed over to Mr. Aman Bahri, learned Addl. AG Punjab for information and necessary compliance.

(Surya Kant)
Judge

10.02.2015
vishal shonkar

(Raj Mohan Singh)
Judge