

*IN THE HIGH COURT FOR THE STATES OF PUNJAB
AND HARYANA AT CHANDIGARH.*

CWP No. 1385 of 1990. [O&M]
Date of Decision: 15th December, 2015.

Bhagwan Dass & Anr. Petitioners

Versus

State of Haryana & Ors. Respondents

Present: Mr. Kanwaljit Singh, Sr. Advocate with
Mr. BBS Randhawa and Mr. C.B. Goel, Advocate,
for the petitioners.

Ms. Kirti Singh, DAG, Haryana.

Mr. Som Nath Saini, Advocate,
for respondent No.3.

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**CORAM: HON'BLE MR. JUSTICE SURYA KANT
HON'BLE MR. JUSTICE P.B. BAJANTHRI**

- 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?**

SURYA KANT, J. [ORAL]

Kashmiri Lal son of Lal Chand – respondent No. 4 filed a petition under Section 42 of the East Punjab Holdings [Consolidation and Prevention of Fragmentation] Act, 1948, *inter-alia*, alleging that a Water-channel is in existence in Killa Nos. 113/16, 17, 18, 23 and 126/2/1 etc. but no entry of it was made in the revenue record. The Director, Consolidation disposed of that application vide order dated 17.09.1987 and remanded the case to the Consolidation Officer with a direction that the entries of Water-course be made in the record as per the spot inspection.

[2]. On remand, the Consolidation Officer, Ambala passed the

order dated 27.11.1987. Instead of making entries of the Watercourse in the revenue record, he twisted the order in such a manner that the Gram Panchayat land [about 4 acres] also stood allotted to the petitioners. The order was *ex-facie* illegal and beyond the subject matter which had arisen for consideration.

[3]. The Director Consolidation, on appeal preferred by the private respondent, tried to control the damage caused by the Consolidation Officer and vide his order dated 01.07.1989 he gave 18 marlas land to the petitioners in lieu of their 17 Marlas land which was utilised for running the Watercourse.

[4]. The operation of the Director's order was stayed by this Court and eventually, the petitioners continued to enjoy possession over the Gram Panchayat land which was far in excess to their entitlement in lieu of their land utilised for the watercourse.

[5]. Resultantly, while the Watercourse as sanctioned by the Consolidation Officer is functional, at the spot the Gram Panchayat land too is in possession of the petitioners.

[6]. Since much water has flown during these long years and one or the other Officers who were hobnobbing with the private persons at the cost of Gram Panchayat are no longer in service, it appears expedient to remand the case to the Consolidation Officer, Panipat to decide the same afresh so that no prejudice is caused to the Gram Panchayat. It is clarified that while deciding the case afresh, the Gram Panchayat shall be heard and no order detrimental to its interest shall be passed on the basis of collusive statement allegedly been made by the then Sarpanch in favour of the

petitioners. The matter shall be decided by the Consolidation Officer within three months from the date a certified copy of this order is received.

[7]. Since the landholding of the Gram Panchayat is not to be reduced while deciding the matter re: entries of water-channel in the record, it is directed that possession of the Gram Panchayat land shall be taken from the petitioners or any other such beneficiary immediately after the case is decided by the Consolidation Officer. It shall be the responsibility of Collector, Panipat to ensure that the petitioners or any one else are not allowed to enjoy the Gram Panchayat land as soon as the matter is decided by the Consolidation Officer.

[8]. Disposed of. Dasti.

(SURYA KANT)
JUDGE

December 15, 2015.
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(P.B.BAJANTHRI)
JUDGE