

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(1)

CWP No.5997 of 1993.
Decided on:-July 06, 2015.

Kartar Singh and others

.....Petitioners.

Versus

Additional Director, Consolidation of Holdings, Punjab and others

.....Respondents.

(2)

CWP No.5998 of 1993.

Kartar Singh and others

.....Petitioners.

Versus

Additional Director, Consolidation of Holdings, Punjab and others

.....Respondents.

(3)

CWP No.5999 of 1993.

Kartar Singh and others

.....Petitioners.

Versus

Additional Director, Consolidation of Holdings, Punjab and others

.....Respondents.

(4) CWP No.6050 of 1993.

Kartar Singh and othersPetitioners.

Versus

Additional Director, Consolidation of Holdings, Punjab and others
.....Respondents.

(5) CWP No.6051 of 1993.

Kartar Singh and othersPetitioners.

Versus

Additional Director, Consolidation of Holdings, Punjab and others
.....Respondents.

CORAM: HON'BLE MR. JUSTICE RAJIVE BHALLA
HON'BLE MR. JUSTICE AMOL RATTAN SINGH.

Present:- Mr. P.N. Aggarwal, Advocate for the petitioners.

Mr. P.S. Bajwa, Additional Advocate General, Punjab.

Mr. A.P. Kaushal and Mr. M.L. Saini, Advocates
for the contesting respondents.

Mr. S.K. Arora, Advocate for Municipal Committee, Ropar.

RAJIVE BHALLA, J. (ORAL)

By way of this order, we shall dispose of five civil writ petitions as they lay challenge to the same order and pertain to the same land. Facts are, however, being taken from CWP No.5997 of 1993.

The petitioners pray for issuance of a writ in the nature of certiorari quashing orders dated 9.2.1993 (Annexure P-5) and 4.1.1988 (Annexure P-1) passed by Additional Director, Consolidation of Holdings and order dated 6.4.1988 (Annexure P-2) passed by the Consolidation Officer.

Counsel for the petitioners submits that as the land in dispute was subject to river action it was excluded from Shamlat Deh, and allotted to the petitioners and others i.e. Jai Singh and Sewa Singh sons of Dial Singh, during consolidation. After more than 30 years of completion of consolidation proceedings, the contesting respondents filed an application under Section 42 of the Act of 1948 before the Additional Director, Consolidation of Holdings, Punjab (Chandigarh) praying that as they had been allotted excess land in A and B blocks but deficient land in 'C' Block, the error may be rectified. The Additional Director, Consolidation of Holdings, Punjab (Chandigarh), vide order dated 4.1.1988 (Annexure P-1) remanded the matter to the Consolidation Officer to examine the record and make good the deficiency after hearing the parties. The Consolidation Officer, has vide order dated 6.4.1988 (Annexure P-2), ordered that deficiency be made good from Shamlat Deh, which belongs to the petitioners and the proforma respondents, without affording an opportunity of hearing to the petitioners and without recording a finding whether any excess land had been allotted to the Shamlat Khewat (i.e. Shamlat land other than land belonging to the Gram Panchayat). The petitioners challenge to

this order has been rejected by Additional Director, Consolidation of Holdings, Punjab by holding that the petitioners do not appear to have suffered any loss and as certain persons were present before the Consolidation Officer, the petitioners were duly represented. A perusal of the order passed by the Consolidation Officer reveals that the presence of the private respondents who sought additional land and a tax inspector on behalf of the Municipal Committee have been recorded. Counsel for the petitioners also submits that the petitioners have been declared owners in RSA No.550 of 1971 thereby rendering the impugned order null and void.

Counsel for the private respondents fairly concede that order dated 4.1.1988 was passed by the Consolidation Officer without affording an opportunity of hearing to the petitioners but pray that in case the petitions are allowed, the matter may be remitted to the Director, Land Records, Punjab, Jalandhar with a direction to determine whether there was any shortfall in the land allotted to the private respondents and in case, it is held that there was any deficiency, to rectify the error.

Counsel for the State of Punjab as well as counsel for the Municipal Committee submit that the land in dispute is admittedly described as Shamlat Deh and, therefore, vested in the Gram Panchayat but as the Gram Panchayat has ceased to exist, vests in Municipal Council, Ropar. The judgment and decree passed in favour of the petitioners in RSA No.550 of 1971 is clearly collusive as the Sarpanch made a statement conceding the claim of the petitioners, without any authorisation or resolution by the Gram

Panchayat. The judgment and decree dated 19.9.1972 passed in RSA No.550 of 1971, does not bind the rights of the Gram Panchayat or its successor the Municipal Committee.

We have heard counsel for the parties and perused the impugned orders.

Apart from the fact that the initial petition filed under Section 42 of the Act suffered from a delay of 35 years, the Additional Director, Consolidation of Holdings, Punjab, while directing the Consolidation Officer to examine the record and make good deficiency in Block-C etc., failed to record any reason in support of his directions. This apart, counsel for the private respondents have conceded that the Consolidation Officer passed the impugned order retrieving 224 Kanals land from the Shamlat Deh without affording an opportunity of hearing to the petitioners or recording a finding that excess land had been allotted to the Shamlat Deh. As regards the order passed by the Additional Director, Consolidation of Holdings, Punjab, rejecting the petition challenging the order passed by the Consolidation Officer, suffice is to state that the Additional Director, Consolidation of Holdings, Punjab did not discern these fundamental errors in the order passed by the Consolidation Officer.

Consequently, the writ petitions are allowed, the impugned orders are set aside and the matters are remitted to the Director, Land Records, Punjab, Jalandahar to adjudicate the original petition filed by the private respondents in accordance with law after considering the question of

delay in filing the petition under Section 42 of the Act of 1948, examining all relevant documents prepared during consolidation, and in case, there is any shortfall in the land allotted to any of the contesting respondents, identify the landowner(s) who were allotted excess land and if permissible, pass orders in accordance with law.

The parties are directed to appear before the Director Land Records, Punjab, Jalandhar on 18.8.2015 who shall decide the petition within three months.

(RAJIVE BHALLA)
JUDGE

(AMOL RATTAN SINGH)
JUDGE

July 06, 2015
'Yag Dutt'