

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

Civil Writ Petition No.6508 of 1989(O&M).
Date of Decision: January 07, 2015

Jai Pal Singh and othersPetitioners
versus
Additional Director/CH, Punjab and another
.....Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT.
HON'BLE MR.JUSTICE RAJ MOHAN SINGH.

Present:Mr.Amar Vivek, Advocate, for the petitioners.
Mr.Rajinder Goyal, Additional AG, Punjab.
Mr.S.K.Pipat, Senior Advocate with
Mr.Manoj Pundir, Adv., for respondent No.2.

-.-

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)

The principal question that would require determination at the hands of the Competent Authority is whether the subject land was lawfully allotted to the predecessor-in-interest of the petitioners by the Custodian and Rehabilitation Department or does it vest in Punjab Wakf Board being a grave-yard?

The facts are not seriously in dispute. On a petition moved under Section 42 of the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948 (hereinafter referred to as 'the Act') by Punjab Wakf Board against the Gram Panchayat of village Mandian, Tehsil Malerkotla, District Sangrur and some other respondents, the Additional Director, Consolidations, Punjab, passed the order

dated 28.01.1988 whereby the case was remanded to the Consolidation Officer with a direction to determine whether the subject land is a grave-yard and vests in the Wakf Board?

The petitioners were directly affected as according to them, the land in question already stood allotted in favour of their predecessor-in-interest, namely, Ganga Singh, by the Custodian and Rehabilitation Department in the year 1950, i.e., much before the Wakf Board came into existence in the year 1954. The petitioners thus moved an application before the Additional Director, Consolidations, to recall the above-stated order dated 28.1.1988 but their application was rejected vide order dated 23.09.1988 observing that the Consolidation Officer would call for the records and determine whether old khasra numbers shown in possession of the Wakf Board are the same, namely, pertaining to the land in dispute and if need be, he would visit the site also.

The aggrieved petitioners approached this Court and vide an interim order dated May 17, 1989, operation of the above-stated orders was stayed.

In the light of these facts, it becomes obvious that the Additional Director, Consolidations before re-opening the whole issue, was required to determine whether the Wakf Board can lay its claim to the property which stood allotted in favour of the predecessor-in-interest of the petitioners even before the Board came into existence? The second question would be whether the stale claim can be entertained at any point of time or it was required to be raised by the Board within some reasonable period? Thirdly, if it is found that the land in question actually vests in Wakf Board by operation of law, whether the petitioners are entitled to be suitably

compensated and if so, in what terms?

We are of the considered view that instead of remanding the case and giving rise to a fresh round of litigation between the parties, it would be appropriate if the Authority competent to exercise powers under Section 42 of the Act itself determine these issues in the best interest of the parties.

For the reasons afore-stated and without expressing any views on the respective claims of the parties, we allow this writ petition to the extent that both the orders dated 28.01.1988 and 23.09.1988 are set-aside and the matter is remitted to the Commissioner under the Punjab Package Deal Properties Act, for determination of the above-stated issues and/or any other related issue that may be raised by the parties, in accordance with law and after hearing the parties. It shall be appreciated if appropriate order is passed within a period of six months from the date of receiving a certified copy of this order.

The parties are directed to appear before the Commissioner, Sangrur, on 09.02.2015.

Dasti.

[SURYA KANT]
JUDGE

January 07, 2015
Mohinder

[RAJ MOHAN SINGH]
JUDGE