

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

Civil Writ Petition No.14474 of 2014 (O&M)

Date of Decision: December 14, 2015

Bhajan Singh

....Petitioner

versus

Director, Land Records of Punjab and othersRespondents

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

Present: Mr.Naveen Batra, Advocate, for the petitioner.
Mr.Rajesh Bhardwaj, Additional AG, Punjab.
Mr.Harsh Bunger, Advocate, for respondent No.3.

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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 petitioner has laid challenge to the order dated 20.03.2013 passed by the Director, Land Records, Punjab, whereby a petition under Section 42 of the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948 filed by respondent No.3 was allowed. The consequential order dated 30.05.2014 passed by the District Revenue Officer-cum-Consolidation Officer is also under challenge.

The petitioner and third respondent are residents of village Barwa, Tehsil Anandpur Sahib, District Rupnagar and it appears that they are neighbours. The consolidation in their village took place and records were finalized on 29.11.1962. There is a dispute between the parties as to whether Khasra Nos.317 and 318 were earmarked as public

passage (Rasta-a-aam) at the time of consolidation or both these khasra numbers were allotted and included in the land-holding of respondent No.3?

Respondent No.3 moved a petition in the year 2011 before the Director, Land Records, claiming that his father was allotted 40 kanals 10 marlas land in consolidation out of which a cut of 0 kanal 13 marla was made for use for common purposes. In this manner, his father was allotted 39 kanal 13 marla standard area against his entitlement of 39 kanal 17 marla. On this premise, it was claimed that there was a deficiency in the allotment of land which was required to be made good. Respondent No.3 further claimed that khasra No.317 is in his possession from the very beginning whereas khasra No.318 was subsequently purchased by him and the petitioner on 21.01.1992. It is thus contended that the area of both these khasra numbers was liable to be included in his land-holding to cater the deficiency. The Director, Land Records vide the impugned order dated 20.03.2013 accepted the claim of respondent No.3 in principle and sent the case to Consolidation Officer to work out the modalities. The second impugned order dated 30.05.2014 was then passed allotting the above-mentioned khasra number to respondent No.3.

There is no gain saying that if khasra Nos.317 and 318 were earmarked as 'public passage' at the time of consolidation, then these two khasra numbers stand included in shamlat deh and vest in Gram Panchayat. The land of public passage cannot be allotted to make good the deficiency. The other question that also needs to be addressed is whether the public passage comprising khasra Nos.317 and 318 is the only access to the land of petitioner?

Unfortunately, both these questions have not been answered by the Consolidation Authorities while passing the impugned orders. The interest of Gram Panchayat is paramount and cannot be allowed to be compromised for the protection of an individual's rights. As the orders under challenge do not address these issues, the same are unsustainable and are hereby set-aside. The matter is remitted to the Director, Land Records, Punjab, for a fresh decision in accordance with law and in the light of observations made herein-above. The Authority shall call for the records of consolidation besides spot inspection report. Thereafter, the matter shall be decided preferably within a period of four months from the date of receiving a certified copy of this order.

The parties are directed to appear before the aforementioned Authority on 11.01.2016.

Dasti.

[SURYA KANT]
JUDGE

December 14, 2015
mohinder

[P.B.BAJANTHRI]
JUDGE