

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.11500 of 1994
Date of Decision:-11.01.2016.

Baru Ram and others

.....Petitioners

Versus

Director, Consolidation, Haryana, Chandigarh and others

.....Respondents

**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?**

Present: Mr. Bhoop Singh, Advocate for the petitioners.

Ms. Kirti Singh, DAG, Haryana.

None for respondent No.3.

SURYA KANT, J. (ORAL)

1.) The petitioners have challenged the order dated 25.3.1994 whereby Director, Consolidation has dismissed their application moved under Section 42 of the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948 (for short 'the 1948 Act') against the closure of public passage comprising *khasra* No.333/1 and to include the area of that passage into plots No.332 and 333.

2.) The facts may be noticed briefly.

3.) The consolidation proceedings in the petitioners' village were held in the year 1962. The petitioners demanded a residential plot of 1

kanal 10 marla of 'Ordinary Acre' in *abadi deh* as per the Consolidation Scheme but they were actually allotted a plot measuring 1 *kanal 9 marla* in the shape of plot No.332.

4.) The petitioners after more than 25 years i.e. in the year 1988 filed the application under 1948 Act alleging that the total area of plot No.332 was erroneously shown as 1 *kanal 4 marla* instead of 1 *kanal 9 marla* in the *Khatauni Paimash*. The Director, Consolidation sent the case to the Consolidation Officer who vide order dated 28.8.1990 rejected the petitioners' application. Thereafter, they preferred a petition under Section 42 of the 1948 Act which was also turned down by the Director, Consolidation vide the impugned order dated 25.3.1994.

5.) On a perusal of the impugned orders, it transpires that the Consolidation Authorities have declined to interfere with and have turned down the petitioners' claim with a concurrent finding of fact that (i) if the path No.333/1 is closed then the flow of rain water of the village would stop and can cause extensive damage to the houses, (ii) the residents have constructed house on both sides of path No.333/1 and if the passage is abolished they shall have no access to their houses; (iii) the petitioners were provided an area of 93.0 standard *kanal/marla* instead of 92.19 standard *kanal/marla* during consolidation as per their right and the same has not been in any manner effected, and (iv) the path in *khasra* No.333/1 has been provided under the consolidation scheme from the very inception in the year 1962 as it is required by the whole village.

6.) Having heard learned counsel for the petitioners and after going through the record, we do not find any ground to interfere with the above reproduced findings of fact as the same are duly supported with the

official documents referred to by the Authorities. In any case, these findings are on issues of facts which have rightly been determined by the Authorities and in the absence of any perverse finding, this Court need not sit over these findings as an appellate forum.

7.) That apart, it cannot be overlooked that the consolidation proceedings were held in the year 1962 and the possession of residential plots along with spot-measurements were given to the parties/residents of the village. The path No.333/1 from the very beginning has been used as a 'public passage' by the entire village community and so many of them have constructed their houses on both sides of that passage. The petitioners, if at all they had any legitimate grouse, themselves allowed the grass to grow under their feet. Their application is thus otherwise liable to be dismissed on account of inordinate delay and laches.

8.) No case to interfere with the impugned orders is made out. For the reasons stated above, the writ petition is dismissed though without any costs.

**(SURYA KANT)
JUDGE**

**(P.B. BAJANTHRI)
JUDGE**

January 11, 2016.

sandeep sethi