

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP no. 2442 of 2008 (O&M)

Date of Decision : 31.8.2016

Harminder Dass Chela and others

....Petitioners(s)

Versus

State of Punjab and others

...Respondent(s)

CORAM : HON'BLE MR.JUSTICE MAHESH GROVER
HON'BLE MR JUSTICE DR. SHEKHER DHAWAN

Present : Mr. Jatinder Singla, Advocate for the petitioners

Mr. Gaurav Garg Dhuriwala, DAG, Punjab

MAHESH GROVER, J.

With the consent of the learned counsel for the parties, main case is taken on board for hearing today.

In this writ petition, the petitioners pray for quashing of instructions dated 25.10.2007 (Annexure P-10) being in conflict with Section 42 A of the East Punjab Holdings (Consolidation & Prevention of Fragmentation) Act, 1948 (hereinafter referred to as the 'Act') inserted vide amendment Act of 2007 and ultra vires the provisions of the Constitution of India.

After the insertion of the aforesaid provision the plea of the petitioners that Bachat land be distributed/partitioned amongst the proprietors of the villagers was negated on account of the impugned Section 42-A which is extracted herebelow:-

Act or in any other Law for the time being in force, or in any judgment, decree, order or decision of any court, or any authority or any officer, the land reserved for common purposes whether specified in the consolidation scheme or not, shall not be partitioned amongst the proprietors of the village, and it shall be utilized and continue to be utilized for common purposes.”

When the vires of the aforesaid provision was challenged before this Court it was negated by decision rendered in case titled as **Mahatam Singh and others vs. State of Punjab and others** reported as 2011 (4) RCR (Civil) 498. The Court held that upon consolidation the Bachat land will continue to be with the Gram Panchayat to be used for its benefit but could not be partitioned. We find that the controversy is squarely covered by the ratio of the aforesaid judgment and therefore, we dispose of the instant petition in terms of the aforesaid judgment.

(Mahesh Grover)
Judge

31.08.2016
rekha

(Shekher Dhawan)
Judge

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No