

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.10937 of 2015 (O&M)

Date of Decision:-31.3.2016.

Sudesh Malik and another

.....Petitioners

Versus

State of Haryana 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. Vikram Singh, Advocate for the petitioners.

Ms. Vishal Garg, Additional A.G. Haryana.

Mr. Rajbir Sehrawat, Advocate for respondent No.4.

SURYA KANT, J. (ORAL)

1.) The petitioners have laid challenge to the orders dated 11.2.2010 and 10.12.2014 (P-3 and P-6) passed by the Consolidation Authorities under the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948. During the consolidation proceedings, different parcels of land have been allotted to the petitioners and private respondents.

2.) It appears from the impugned orders that the petitioners have two fold grievance, namely, (i) that the *Barani* land allotted to

them is in excess as compared to their proportionate share in such land before partition; (ii) the consolidation has resulted into bifurcation of their land.

3.) The matter was heard at a considerable length and for better appreciation of issues, the Consolidation Officer was directed to remain present along with a site-plan depicting the land allotted to the parties along with passage and water-courses.

4.) Pursuant to those directions, the Consolidation Officer has placed on record a comprehensive site-plan giving full details of the land allotted to the petitioners and private respondents of both the qualities, namely, *Nehri* (irrigatable) and *Barani* (non-irrigatable).

5.) We have heard learned counsel for the parties with reference to the site-plan which is marked as 'A'. It is revealed therefrom that the land shown in yellow colour is allotted to petitioner No.2 while the one shown in purple colour has gone to the added respondent No.16. The land shown in pink colour is owned by petitioner No.1. It may be seen that the water-course and passage are parallel to each other and are passing through the land allotted to petitioner No.2 as well as the contesting respondents. The water-course cannot be admittedly shifted. So far as the passage going across the lands of petitioner No.2, the contesting respondent and Raj Singh respondent No.4, is useful and advantageous to everyone and cannot be said to have caused any disadvantage to the second petitioner. So far as petitioner No.1 is concerned, he is not affected

by the passage as his land is located far away from the same. In fact, he has been allowed to retain most of the same land which was in his possession before consolidation. We are, thus, satisfied that the objection regarding bifurcation of land is wholly misconceived and deserves rejection.

6.) As regard to the allocation of more *Barani* land to petitioner No.1, the Consolidation Officer has explained that before the consolidation, petitioner No.1 was in possession of 41 *kanal* 15 *marla Nehri* and 34 *kanal* 15 *marla Barani* land whereas after the consolidation, he has been allotted 45 *kanal* 0 *marla Nehri* and 25 *kanal* 2 *marla Barani* land. Thus, *Nehri* land of petitioner No.1 has increased and the area of his *Barani* land has reduced. In this view of the matter when the Consolidation Authorities have made a sincere effort for equitable distribution of the good and average land amongst all shareholders and there is no perversity or patent illegality in undertaking such exercise, we are satisfied that the scope of judicial review cannot be enlarged to go into the smallest nitty-gritty of the consolidation exercise. Even if there is slight increase in the *Barani* area of the petitioners, it does not call for any interference in the impugned exercise as the authorities are expected to make minor adjustments for the purpose of equitable distribution of good and average quality of land amongst all shareholders.

7.) For the reasons afore-stated, we decline to interfere with the impugned orders. The Consolidation Authorities are accordingly

directed to ensure physical delivery of possession as per the approved consolidation scheme immediately after harvesting of the Rabi crop.

8.) Disposed of.

**(SURYA KANT)
JUDGE**

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

March 31, 2016.

sandeep sethi