

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.25490 of 2014 (O&M)

Date of Decision:-28.3.2016.

Gram Panchayat, Sehaura

.....Petitioner

Versus

State of Punjab 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. H.S. Dhindsa, Advocate for the petitioner.

Mr. Rajesh Bhardwaj, Additional A.G. Punjab.

Mr. H.S. Batth, Advocate for respondent No.6.

SURYA KANT, J. (ORAL)

1.) The Gram Panchayat of Village Sehaura, Tehsil Payal, District Ludhiana assails the order dated 13.8.2014 passed by Director Land Records, Punjab whereby its application-cum-petition filed under Section 42 of the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948 (for short 'the 1948 Act'), has been dismissed.

2.) The facts may be noticed briefly.

3.) The consolidation of land holding in Village Sehaura took

place in the year 1954-55 during which the second respondent (since deceased and represented by LRs) was allotted land vide Resolution No.22 dated 8.8.1955. After 40 years, he filed a petition under Section 42 of the 1948 Act before the Director, Consolidation alleging deficiency in the allotted land. It appears that the then Sarpanch Balwant Singh appeared on behalf of the Gram Panchayat and disputed the claim of respondent No.2. He also raised the objection that the claim was barred by limitation. The Director, Consolidation brushed aside the objection on limitation without assigning any reason and having found that there was a shortage in the allotment of land, ordered to make the deficiency good by allotting additional land to respondent No.2 out of the land of Gram Panchayat.

4.) The above stated order dated 20.10.1995 went unchallenged until the Gram Panchayat filed the application-cum-petition in the year 2014 under Section 42 of the 1948 Act for the recall of aforesaid order. The application has been dismissed vide the impugned order dated 13.8.2014 observing that the 1995 order was passed in the presence of the then Sarpanch of the Gram Panchayat hence, it cannot be said that it was a one sided order.

5.) The aggrieved Gram Panchayat is before us.

6.) We have heard learned counsel for the parties at a considerable length and gone through the record.

7.) It may be seen from the plain reading of the impugned order dated 13.8.2014 that the Director, Land Records has been

largely influenced by the fact that the presence of the then Sarpanch (Balwant Singh) is duly recorded in the order dated 20.10.1995 and his contentions have also been taken notice in that order. The Director Land Records, however, has failed to respond the specific plea taken by petitioner-Gram Panchayat that no Resolution was ever passed authorizing the then Sarpanch to appear and that no reply was filed on behalf of the Gram Panchayat.

8.) Since a juristic person like the Gram Panchayat is not expected to transact its day to day business through oral decisions and official record is required to be maintained, it was imperative upon the Director, Land Records to call for such records and satisfy as to whether or not there was any authorization by the Gram Panchayat and whether the then Additional Director had given ample opportunity to the Gram Panchayat to file its reply and if so, whether such opportunity was availed by the then Sarpanch?

9.) There is no gainsaying in reminding that 'fraud' and 'collusion' vitiates even a lawful action and if proved, the technicalities like delay, limitation or failure to avail opportunities becomes inconsequential. These aspects have not been gone into by the Director Land Records though the Gram Panchayat admittedly has suffered loss of its land holding. We are thus of the considered view that it will be in the public interest to direct the Director, Land Records to decide the Gram Panchayat's application afresh keeping in view the observations made hereinabove.

10.) For the reasons aforesaid, the writ petition is allowed; the order dated 13.8.2014 is set aside and the matter is remitted to the Director Land Records to decide the same afresh and in accordance with the principles of natural justice.

11.) The parties are directed to appear before the Director Land Records on 25.4.2016.

(SURYA KANT)
JUDGE

(P.B. BAJANTHRI)
JUDGE

March 28, 2016.

sandeep sethi