

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.9831 of 2015 (O&M)

Date of Decision: 26.05.2016

Taranjit Singh

... Petitioner

VS.

Director, Land Records, Punjab & Ors.

... Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT

HON'BLE MR.JUSTICE A.B. CHAUDHARI

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. Harsh Bungar, Advocate for the petitioner

Mr. Rajesh Bhardwaj, Addl. AG Punjab

None for the private respondents

SURYA KANT, J. (Oral)

(1) The petitioner challenges the order dated 26.11.2014 (P8) whereby the Director, Land Records exercising the powers under Section 42 of the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948 has dismissed his petition.

(2) The controversy pertains to a passage which connects the land of the petitioner with the main passage. The grandfather of petitioner had earlier filed a petition under Section 42 of the 1948 Act and vide order dated 16.03.1993, a path was ordered to be provided to the block (tak) out of the area comprising khasra No.58//8/2 and 13. The petitioner's case is that since then he has been using that path and in fact had transferred the land in favour of private respondents in lieu of their land utilized for providing the said path. However in the revenue record, the transfer was not reflected due to which proprietary body of the village wanted to obstruct the existing path. It

is in these circumstances that a fresh petition was filed by the petitioner which has been erroneously dismissed by the Director.

(3) No one has come forward to contest this petition on behalf of the private respondents though they have been duly served.

(4) One of the grounds taken by the Director, Land Records to reject the petition is that no petition under Section 43-A is maintainable. The petitioner appears to be right in contending that his petition was under Section 42 and not under Section 43 alone. The issue whether petitioner has given land in lieu of the land utilized to provide path in question is also a question of fact worth determination. Suffice it to say that if the petitioner or his predecessor had given land in lieu of the land utilized for the path, they cannot be made to suffer on both counts, namely, that they will lose the path as well as their land. In these circumstances, we are satisfied that the matter requires reconsideration by respondent No.1

(5) For the reasons afore-stated, the writ petition is allowed; impugned order dated 26.11.2014 (P8) is set aside and the matter is remitted to respondent No.1 to decide the same afresh after notice to all the stakeholders.

(6) Let appropriate orders be passed within six months from the date of receipt of a certified copy of this order.

(7) Till then, *status quo* as directed by this Court shall continue to operate.

(Surya Kant)
Judge

26.05.2016
vishal shonkar

(A.B. Chaudhari)
Judge