

**IN THE PUNJAB AND HARYANA HIGH COURT
AT CHANDIGARH**

CWP No. 12322 of 2014 (O&M)

Date of decision: 23.2.2017

Amir Singh and others

..... Petitioners

VS

Commissioner and another

..... Respondents

**Coram: Hon'ble Mr. Justice Rajesh Bindal
 Hon'ble Mr. Justice Harinder Singh Sidhu**

Present Mr. S. P. Chahar, Advocate, for the petitioners.
 Mr. Ankur Mittal, Additional Advocate General, Haryana.
 Mr. R. S. Kataria, Advocate, for respondent no. 2.

Rajesh Bindal J.

The grievance of the petitioners is that consolidation proceedings, which were concluded more than 46 years ago were set aside by the Commissioner without affording opportunity of hearing to the petitioners by passing impugned order, Annexure P-2, dated 6.11.2013. Though the application was filed by respondent no. 2 on 31.10.2006 and the petitioners were impleaded as respondents therein, they were even served with notice, however, when the case was decided there was no intimation of the date of hearing as during the interregnum, the matter was just kept pending without any proceedings. Even the impugned order notices that only the applicant was heard. It wrongly noticed that aggrieved persons were not impleaded as respondents, whereas the names of the petitioners find mention in the application filed by respondent no.2.

The fact that the opportunity of hearing was not afforded to the petitioners was not disputed by learned counsel for the State.

Learned counsel for respondent no. 2 submitted that the Commissioner has not passed any final order. He has merely remitted the case back to the Consolidation Officer to hear the parties and pass afresh order, hence, the petitioners cannot raise any grievance.

After hearing learned counsel for the parties, in our opinion, the impugned order dated 6.11.2013, passed by the Commissioner, Rohtak Division, Rohtak, deserves to be set aside, merely on the ground of violation of principles of natural justice, as admittedly, no opportunity of hearing was afforded to the petitioners before passing the impugned order after 46 years of consolidation having been taken place.

Ordered accordingly.

The parties are directed to appear before the Commissioner, Rohtak Division, Rohtak, on 18.4.2017 for decision afresh on the application filed by respondent no.2.

(Rajesh Bindal)
Judge

23.2.2017
vs

(Harinder Singh Sidhu)
Judge

Whether speaking/ reasoned

Yes/No

Whether Reportable

Yes/No