

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

COCP 795/2018

Date of decision:15.03.2018.

Shikha and another

.....Petitioners

v.

Vikas Yadav(Director General) and others

.....Respondents

Coram: Hon'ble Mr.Justice Jaswant Singh

Present:- Mr.Randhir Singh Hooda,Advocate for the petitioners
Mr.DK Mittal,Deputy Advocate General,Haryana

Jaswant Singh,J,(Oral).

Two minors represented through their next friend and natural guardian, claim themselves to be legal representatives of one Giani, who had filed CWP 17861/2006 with regard to the proposed alignment of the “phirni” leading to demolishing of his some constructed structure situated in khasra no.7//20 situated within the revenue estate of Village Berka,Tehsil Sohna, District Gurgaon.

A Division Bench of this Court vide order dated 17.12.2008 allowed the said writ petition and directed that the “phirni” earlier carved out shall run along the killa line of khasra no.7//20, meaning thereby that the “phirni” had to be realigned.

Present contempt has been filed after 9 years with the averments that the Consolidation Officers are proposing to construct the “phirni” as per earlier approved alignment by ignoring the directions contained in the order dated 17.12.2008.

Without issuing notice, Mr.D.K.Mittal,Deputy Advocate General,Haryana was directed to seek instructions from the officers concerned.

At the time of hearing today Mr.Mittal, on instructions from Dr.Naresh Kumar, the then Tehsildar has pointed out that the order dated 17.12.2008 passed by a Division Bench of this Court was recalled and the writ petition was ordered to be heard afresh on the application bearing CM

No.1255/2010 moved by Mr.Bhagwat (respondent no.4 therein). He thereby submits that there is no fresh order setting aside the earlier proposed and sanctioned alignment of the “phirni” which runs through the line comprised in khasra no.7//20.

In response,counsel for the petitioner has tried to refer to an order dated 24.4.2015(P-6) passed by a learned single Judge of this Court directing that the order dated 17.12.2008 passed by the Division Bench was required to be enforced while dismissing CM 6907/2012 moved by one Khazan Singh for his impleadment.

This Court is not in agreement with the observations contained in the order dated 24.4.2016 as by that date the earlier order dated 17.12.2008 stood recalled by a Division Bench of this Court on 21.5.2010. Thereafter,there is no order passed passed in CWP 17861/2006 wherein there is a challenge to the previously proposed and sanctioned alignment of the “phirni” which runs through khasra no.7//20. It is further pointed out that Khazan Singh had also filed two separate writ petitions with regard to the same alignment which were dismissed by this Court on technical grounds and not on merits. The facts taken cumulatively reveal that as on date there is no subsisting order requiring realignment of the “phirni” contrary to the already sanctioned alignment. Hence there is no occasion to invoke contempt jurisdiction of this Court.

Dismissed.

15.03.2018
joshi

(Jaswant Singh)
Judge

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No