

CWP no.3891 of 1995 (O&M) 1

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

CWP no.3891 of 1995 (O&M)

Date of Decision : 08.02.2018

Darshan Singh

....Petitioner(s)

Versus

The Additional Director of Consolidation Punjab and others

...Respondent(s)

**CORAM : HON'BLE MR.JUSTICE MAHESH GROVER
HON'BLE MR JUSTICE RAJBIR SEHRAWAT**

Present : Mr.Manish Kumar Singla, Advocate for the petitioner(s)

Mr. Sandeep Vermani, Addl. AG, Punjab

Mr. Amarjit Markan, Advocate for respondent

MAHESH GROVER, J.(ORAL)

The petitioner impugns the order dated 7.2.1994. The issue revolves around a passage that would connect two villages and convenience the residents of the area.. Prior thereto a process was initiated and the Director Consolidation remanded the matter back to the Consolidation Officer by making the following observations:-

“So this case is remanded to the Consolidation Officer with the direction that ends of the both passages be joined after perusal of the difference between the pillars established between the boundary of both the villages. On shifting the passages comprised in no.1381 towards northern side, the area has to be taken

from the second party, which be adjusted in the excess area of with him. On doing so if any area found out excess in the land of the applicant and second party then that be left as Bachhat land at proper site, after hearing both the parties and Gram Panchayat, as per above. This petition is accepted.”

Pursuant thereto Consolidation Officer passed a fresh order on 28.5.1992 and dis-satisfied with the same the present petitioner went up in appeal before the Settlement Officer who passed the following order on 27.1.1993 with the following directions:-

“So present appeal is accepted and case is remanded to the Consolidation Officer with the direction that the passage of village Narike and Sahike be properly joined. As per the compliance of the order under section 42 dated 25.10.1991 and after thorough inspection, decision of regarding the deficiency and excess are of the both the parties be made.”

Thereafter, an order was passed by the Consolidation Officer on 7.3.1994 where the deficiency of the petitioner was made good which is reflected from the relevant portion of the order extracted herebelow:-

<u>No.</u>	<u>Name owner</u>	<u>Kharaj</u>	<u>Samal</u>
1.	Didar Singh,Avtar Singh, Nirmal Singh, Darshan Singh s/o Gurdev Singh	1304 0-5 0-2-2 North 48x2	1303 0-5 0-1-2 Sarak 48x2
		7-7 1-14-0	7-8 1-14-0

Dis-satisfied an appeal was filed against the said order resulting

18.1.1995, the relevant of which is also extracted below:-

“5. Vide order dated 7.3.1994

Consolidation Officer find out after perusal of the record that the passage of village Sahike and Village Narike are not joined with each other. Its difference from each other is of 8 karams without joining these, the natives of both the villages have to face difficulty in order to approach through these passages. Vide resolution no. 136 the Killa no. 1313/1 (3-3) valuing 0-6-0 under section 21(2) allotted to the objectors and vide resolution no. 145, 7B-8B to Janki Ram. So the deficiency of 0-6-0 cause to the objector. Vide resolution no.136 which area was allotted, but at the time of preparation of Pamaish Khatauni more deficiency of 0-5-0 has been caused. This difference/deficiency caused due to withdrawn like this total deficiency of 0-11-0 annas caused to the objector. No one rightholder can be allotted the area less than his entitlement. The Consolidation Officer has made out the deficiency from the area of Gram Panchayat that is correct. As such for joining of both the passage the land had to be taken from the area of petitioner. Petitioner has been allotted the land to made up the deficiency caused due to the utilisation of the land for this passage. It is proved from the record and that Kila no .1304/2 is the area of Didar Singh etc. and adjoining area has been given by the Consolidation Officer. No separate Tak has

been established. So no harm has been caused to them. Litigations seems due to individual motive. The decision passed by the Consolidation Officer is fully explained and based on the record, which has been passed for the compliance of the remand order dated 25.10.1991. So in view of the above arguments, these petitions are dismissed. No other point except the above has been raised before me during arguments. Order pronounced.”

Learned counsel for the petitioner contends that this was contrary to the directives contained in the order of remand and the authority below has travelled beyond the direction given in the said order.

We have considered this aspect and find that the grievance is totally mis-placed. The deficiency has already been made good and the passage so carved out is connecting two villages benefiting all the residents of the area with no prejudice to any one. Consequently, we do not find any reason to interfere. Hence, instant petition is hereby dismissed.

(Mahesh Grover)
Judge

(Rajbir Sehrawat)
Judge

08.02.2018

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Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No