

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

CWP-5737-2019 (O&M)
Date of Decision: 27.08.2019

Mai Chand and others

. Petitioners

Vs.

State of Haryana and others

. Respondents

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN
HON'BLE MR.JUSTICE ARUN KUMAR TYAGI

Present: - Mr.C.B. Goel, Advocate,
for the petitioners.

Mr.Ankur Mittal, Addl. A.G. Haryana.

RAKESH KUMAR JAIN, J. (ORAL)

The petitioners have challenged the order dated 13.4.2018 passed by the Assistant Consolidation Officer, Karnal.

In brief, the petitioners had earlier approached this Court by way of CWP-12579-2008 which was disposed of vide order dated 3.11.2008, which read as under: -

“The instant Controversy relates to the finalization of the consolidation proceedings for two adjoining villages namely, Manglora Jadid and Manglora in Tehsil and District Karnal.

In so far as village Manglora Jadid is concerned, learned counsel for the respondents invited our attention to the order passed by the Deputy Commissioner, Karnal dated 28.8.2008 wherein it is asserted that Jamabandis of the aforesaid village are correct, and that, the consolidation officer

has been directed to effect consolidation in the said village, as per rules and regulations. In so far as, the other village, namely Manglora is concerned, learned counsel for the respondents invited this Court's attention to preliminary objection No.1 in the written statement filed on behalf of respondents No.1 to 3, wherein it stands noticed that fresh/correct jamabandis have not been finalized as of now. It is the contention of the learned counsel for the respondents that the aforesaid procedure will have to be given effect to first before consolidation of the land of the village.

Keeping in view the aforesaid work which remains pending for consolidation of the land of villages Manglora in Tehsil and Distict Karnal, learned counsel for the respondents on the basis of instructions received from Mr. Krishan Singh, Naib Sadar Kanungo, office of the Deputy Commissioner, Karnal, states that the revenue records of village Manglora, specifically Jamabandis thereof will be corrected and finalized within three months from today. He further states that appropriate directions be issued to finalize consolidation thereafter.

Keeping in view the statement made by the learned counsel for the respondents, we direct the respondents to correct the revenue record (if correction is required) for village Manglora on or before 31.01.2009. The said consolidation process of the aforesaid two villages, namely Manglora Jadid and Manglora in Tehsil and District Karnal, be

finalized within six months from the aforesaid date i.e. on or before 31.7.2009, in accordance with rules and regulations.

Writ petition stands disposed of in the aforesaid terms.”

The petitioners were not satisfied as the direction issued in the said order was not complied with, therefore, filed a contempt petition bearing COCP No.649 of 2010, which was disposed of by this Court on 23.8.2010 with the following order: -

“The grievance of the petitioners is that the consolidation of village Manglora Jadid and Manglora Qadim has not been completed, although the directions are issued by the Director Consolidation on 9.7.2002.

In reply on behalf of the Director Consolidation, Haryana-respondent No.1, it has been pointed out that there are six stages which are mandatory to be completed in the consolidation proceedings and that the consolidation work up to the second stage is almost completed but to complete the remaining four stages at least one year time is required provided right holder of the village actively cooperated in the consolidation proceedings. The stages are:-

- (i) Preparation of preliminary record.*
- (ii) Publication & confirmation of consolidation scheme*
- (iii) Repartition under Section 21(1) of the East Punjab Holdings (Consolidation and Prevention of Fragmentation Act, 1948).*
- (iv) Transfer of possession.*

(v) *Final Attestation.*

(vi) *Consignment of record.*

In view of the facts stated in the reply, the respondents are permitted to complete the consolidation process on or before 31.8.2011. The petitioners and other proprietors of the village shall cooperate in the proceedings. It shall be open to the respondents to complete the consolidation proceedings even if some of the residents do not cooperate actively in the consolidation process.

Consequently, the present petition is disposed of.”

Still the petitioners, having grievance, that despite the order passed in the contempt petition, no action is being taken to complete the consolidation proceedings, filed fresh writ petition bearing CWP-1988-2017 which was disposed of on 3.2.2017 with the following order: -

The controversy pertains to non-finalisation of the consolidation proceedings of village Manglora, Tehsil and District Karnal. The petitioners had earlier approached this Court through CWP No.12579 of 2008, which was disposed of with a direction that such proceedings be finalised within six months, i.e. on or before 31.07.2009.

Since the time bound directions were not adhered to, the petitioners filed COCP-649-2010 in which this Court took notice of various stages through which the proceedings were to be held and directed to complete the consolidation process on or before 31.08.2011.

The instant writ petition has been filed by the petitioners alleging that the undertaking given before the Contempt Court has also not been honoured as no visible action has been taken so far to complete the consolidation proceedings. Such an inaction of the authorities if correct, prima facie, amounts to serious contempt and defiance of the Court directions.

We, thus, dispose of this writ petition firstly with a direction to the Deputy Commissioner, Karnal, to take cognizance of the matter and ensure the necessary steps towards completion of consolidation proceedings at the earliest, failing which the petitioners shall be at liberty to initiate fresh contempt of Court proceedings against the Officers/officials, who are guilty of indulging in delaying tactics.

Disposed of.

This petition is however, filed to assail the validity of the order dated 13.4.2018 which is an information given under the Right to Information Act, 2005 by the Assistant Consolidation Officer to the petitioner, which reads as under: -

“Jamabandi for the year 2015-16 of village Manglora Jadid has been received from the revenue department. The consolidation work will be done as per Jamabandi, the Jamabandi for the year 2011-12 of village Manglora has been received from the revenue department and the consolidation work will be done as per the Jamabandi for the year 2011-12.”

Learned counsel for the petitioners has submitted that so far the respondents have not completed the consolidation proceedings.

On the other hand, learned counsel for the respondents has submitted that the writ petition in the present form is not maintainable because already a direction has been issued by this Court on 03.02.2017 to the Deputy Commissioner, Karnal to take cognizance of the matter and on the basis of that the process has been taken for compliance of the consolidation proceedings.

We have heard learned counsel for the parties and after perusing the record, we are of the considered opinion that once a direction has been issued by this Court on 03.02.2017 in the subsequent CWP-1988-2017 to take cognizance of the matter and ensure the necessary steps to complete the consolidation proceedings at the earliest and according to the petitioner the proceedings have not yet been completed, it gives the petitioners cause of action to file contempt petition instead of filing writ petition seeking the same relief for which they had come to this Court earlier two times.

With these observations, the present petition is hereby disposed of as not maintainable.

(RAKESH KUMAR JAIN)
JUDGE

(ARUN KUMAR TYAGI)
JUDGE

27.08.2019
Vivek

Whether speaking /reasoned : *Yes/No*
Whether Reportable : *Yes/No*