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

**CWP No.13045 of 2019 (O&M)
Date of decision: July 25, 2019**

Sachin

...Petitioner

Versus

State of Haryana and others

...Respondents

**Coram: Hon'ble Mr. Justice Rakesh Kumar Jain
Hon'ble Mr. Justice Avneesh Jhingan**

Present: Mr. Avnish Mittal, Advocate,
for the petitioner.

Mr. P.P.Chahar, DAG, Haryana.

Mr. Sanjeev Kumar Aggarwal, Advocate,
for respondent no.5.

Rakesh Kumar Jain, J.

The petitioner has challenged the orders dated 08.05.2018 passed by the Deputy Commissioner-cum-Assistant Director, Consolidation, Faridabad and dated 14.03.2019 passed by the Commissioner, Faridabad Division while exercising his powers under Section 42 of the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948 (hereinafter referred to as the "Act").

In brief, the petitioner is son of Selak Ram, who allegedly came into possession of land measuring 4 Kanal 19 Marla, comprised in Killa Nos.106/8 (1-9), 9/1 (2-19) and 12 (0-11), situated at village Anangpur, Hadbast No.2, Tehsil and District Faridabad on the basis of an agreement to sell dated 06.01.2006 and the General Power of Attorney of the even date. However, the aforesaid land was allotted during consolidation proceedings to respondent no.5 Maharaj Singh and his brothers. Selak Ram, father of the

petitioner, filed an application under Section 21(2) on 24.11.2005 but the said application was dismissed by the Consolidation Officer on 17.02.2006, against which Selak Ram filed an appeal under Section 21(3) of the Act, which was allowed on 10.04.2006. Respondent no.5 challenged the said order dated 10.04.2006 by way of an appeal filed under Section 21(4) of the Act, which was allowed by the Deputy Commissioner-cum-Assistant Director, Consolidation, Faridabad on 08.05.2018. However, the revision filed by the petitioner against the order dated 08.05.2018 under Section 42 of the Act was dismissed by the Commissioner, Faridabad Division on 14.03.2019. Hence, the present petition.

The sole argument of the petitioner is that he, being in possession of the disputed land by virtue of an agreement to sell and subsequent sale deed dated 22.06.2012, should have been given an opportunity of hearing along with his vendors i.e. Raghubir Singh etc. before allowing the appeal filed by respondent no.5 vide order dated 08.05.2018.

Repudiating the aforesaid argument, counsel for respondent no.5 has submitted that the land in question was allotted to respondent no.5, which fact clearly reflected in the impugned orders and possession was also delivered to him on 09.10.2005 as per the report of the Patwari. He has also submitted that all the issues were raised by the petitioner along with his father before the Assistant Director, Consolidation, Faridabad and has referred to the Vakalatnama executed by them in favour of D.K.Nagar, Advocate, which is on the record of the Court below. It is further submitted that the proceedings before the Assistant Director, Consolidation, Faridabad remained pending from 2006 to 2018, and it cannot be believed that the legal heirs of Raghubir Singh etc. were not aware of the pendency of the proceedings by way of appeal. He

has also submitted that the petitioner cannot be treated as owner of the property in dispute only on the basis of the agreement to sell and the General Power of Attorney as the title of the immovable property having the value of more than ₹100/- can pass only by way of registration of sale deed. It is also argued that in the year 2006, neither the petitioner nor his father was the owner and has no right to file objection or the appeal etc.

After hearing learned counsel for the parties and examining the available record, we are of the considered opinion that the sole argument of the petitioner that neither he nor his vendors were heard before passing the order dated 08.05.2018 is without any basis because the petitioner and his father had duly executed a valid Vakalatnama/Power of Attorney in favour of D.K.Nagar, Advocate when the matter was pending before the Assistant Director, Consolidation, Faridabad, which we have also perused and, therefore, the petitioner cannot now make a hue and cry that he was not heard before passing the impugned order dated 08.05.2018 by the Assistant Director, Consolidation, Faridabad.

No other point has been raised.

In view of the aforesaid facts and circumstances, we do not find any merit in the present petition for the purpose of interference and hence, the same is hereby dismissed, though without any order as to costs.

(Rakesh Kumar Jain)
Judge

July 25, 2019
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(Avneesh Jhingan)
Judge

Whether speaking / reasoned : Yes/No
Whether reportable : Yes/No