

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

CWP No.14775 of 2018(O&M)

Date of Decision:-01.05.2019

Nawal Kishore.

.....Petitioner.

Versus

**Director Land Records & Consolidation Punjab, Jalandhar &
Ors.**

.....Respondents.

**CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH
HON'BLE MR. JUSTICE ARUM KUMAR TYAGI**

Present:- Mr. Naresh Prabhakar, Advocate for the Petitioner.

JASWANT SINGH, J.

Petitioner-Nawal Kishore has filed the instant writ petition challenging the order dated 21.03.2006 (**P-6**) passed by Consolidation Officer, Kapurthala; Order dated 28.01.2009 passed by Settlement Officer, Consolidation, Jalandhar; order dated 05.05.2011 passed by Assistant Director-cum- Additional Deputy Commissioner Consolidation Punjab; and order dated 23.08.2017 passed by Director Land Records and Consolidation, Punjab, Jalandhar whereby the claim of petitioner for providing of passage to a land allotted to his predecessor in interest/vendor, has been declined and matter stands remanded back to Consolidation officer

for fresh adjudication.

Learned Counsel for the petitioner has argued that vide order dated 05.08.1986, petitioner's vendor was allotted 3 Kanals of land, which had no passage and, therefore, the said land could not be put to use. After the land was purchased by the petitioner, he moved an application in the year 1999 before the Consolidation Officer, who instead of providing a passage, dismissed his claim vide order dated 19.07.1999. Being aggrieved against the said order, an appeal was preferred which was allowed vide order dated 28.01.2000 and the matter was remanded back for fresh adjudication. As per the counsel, after remand, Consolidation Officer corrected the field book and allotted land measuring 2 Kanals 18 Marlas vide order dated 22.12.2000. This order was challenged by the affected party i.e. respondent no.8 before the Settlement Officer, Jalandhar, who again remanded back the matter by setting aside the order dated 22.12.2000 (P-5). Vide order dated 21.03.2006 (P-6), the matter was again decided by Consolidation Officer, by allotting some land to petitioner. However, the said order was again challenged by a private party, being aggrieved against the allotment done and, thereafter the matter has again been remanded back by Settlement Officer vide impugned order dated 28.01.2009 and the said order stands affirmed upto Director Land Records. As per the learned Counsel, the entire approach of the Authorities below is incorrect as the authorities while dismissing the appeals/revision preferred by petitioner has stated that petitioner has already been allotted 3 Kanals of land vide order dated 05.08.1986 by the Consolidation

Officer and, therefore, now no more land is required to be allotted to him. It is argued that the said observation is contrary to record because while passing order dated 21.03.2006, the Settlement Officer had specifically set aside all previous orders of allotment and directed Consolidation Officer to pass a fresh order. Thus, it is argued that the allotment, if any, made to petitioner's vendee in the year 1986 stands cancelled and therefore petitioner is entitled for fresh allotment of land.

We have heard learned Counsel for petitioner at length and have also scrutinized the paper book. However, we are of the view that instant petition is without any merit and deserves to be dismissed.

The dispute raised in the instant writ petition is completely factual which cannot be effectively answered by us, while exercising the powers under Article 226 of the Constitution. It is seen that vide order dated 09.10.1985 Director Consolidation had allotted petitioner's vendor 3 Kanals of more land being deficient. It is apparent that 3 Kanals of land was allotted to by Consolidation Officer in compliance of the order passed by Director Consolidation to petitioner's vendor vide order dated 5.8.1986 out of Khasra No.60. It seems that the predecessor in interest was satisfied by such allotment, however, after purchase of land from his vendor, present practitioner raised another factual dispute that land allotted to him in Khasra No.60 cannot be effectively utilized by him as no passage has been provided for ingress and egress to said land.

which has lead to present round of litigation, which has been enumerated in the preceding paragraphs.

To our mind, petitioner has stepped into the shoes of his vendor and once the vendor has accepted the allotment of land measuring 3 Kanals from Khasra No.60, then petitioner is no body to re-agitate the matter again and thereby start a fresh round of litigation, especially when the impugned orders specifically notice that order dated 05.08.1986 has been complied with. However, keeping in view the fact that ultimately the matter has been remanded back to Consolidation Officer for fresh adjudication, we are of the view that it is in the interest of justice that the matter is looked into by the said officer, who apart from ascertaining the factual position must also ascertain whether order dated 05.08.1986 has been complied with or not and whether the petitioner has been enjoying the usufructs of the land in question after purchase from his vendor.

In view of the above, finding no merit in the present writ petition, the same is hereby dismissed.

(JASWANT SINGH)
JUDGE

(ARUN KUMAR TYAGI)
JUDGE

May 01, 2019
Vinay

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No