

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

**Date of Decision: 23.10.2019
CWP No.26552 of 2016**

(1)

Balbir Singh and othersPetitioners
Versus

Director Land Records, Punjab and anotherRespondents

(2)

CWP No.26577 of 2016

Jai Singh and anotherPetitioners
Versus

Director Land Records, Punjab and anotherRespondents

(3)

CWP No.27035 of 2016

Charanjit Kaur and othersPetitioners
Versus

Director Land Records, Punjab and anotherRespondents

(4)

CWP No.23210 of 2017

Gurmit Singh and othersPetitioners
Versus

State of Punjab and othersRespondents

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

Present : Mr. Amarjit Markan, Advocate for the petitioners
(in CWP Nos.26552, 26577 and 27035 of 2016).

Mr. Prem Nath Aggarwal, Advocate for the petitioners
(in CWP No.23210 of 2017).

Ms. Monica Chhibber Sharma, Sr. D.A.G. Punjab.

Mr. Neeraj Sharma, Advocate for respondent No.34
(in CWP No.23210 of 2017).

RAKESH KUMAR JAIN, J. (ORAL)

This order shall dispose of four writ petitions bearing CWP
No.26552 of 2016 titled as 'Balbir Singh and others Vs. Director Land
Records, Punjab and another', CWP No.26577 of 2016 titled as 'Jai
Singh and another Vs. Director Land Records, Punjab and another',

CWP No.27035 of 2016 titled as 'Charanjit Kaur and others Vs. Director Land Records, Punjab and another' and CWP No.23210 of 2017 titled as 'Gurmit Singh and others Vs. State of Punjab and others' as the issue involved in these cases is the same. However, for the sake of convenience the facts are being extracted from CWP No.26552 of 2016.

In short, the petitioners have challenged the order dated 01.07.2016 passed by the Director Land Records, Punjab by which the petition filed by the petitioners under Section 42 of the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948 was dismissed.

Earlier orders passed by the Consolidation Officer and the Additional Director Consolidation dated 04.01.1988 and 09.02.1993 were challenged by one Kartar Singh by way of five writ petitions. All these writ petitions were clubbed together and vide order dated 06.07.2015, the said petitions were allowed and after setting aside the aforesaid two orders, the matters were remanded back to the Director, Land Records, Punjab, Jalandhar to adjudicate the original petition filed by the private respondents therein in accordance with law after considering the question of delay in filing the petition under Section 42 of the Act and examining all relevant documents prepared during consolidation, and in case it is found that there is any shortfall in the land allotted to any of the contesting respondents, then the landowners to whom the excess land had been allotted be identified and if permissible, pass orders in accordance with law.

After the remand, the impugned orders have been passed on the ground that he has no jurisdiction to partition the *shamlat* land.

Counsel appearing on behalf of the petitioners has

submitted that the issue was as to whether after the consolidation and at the time of re-partition, the deficiency of the area can be made good by retrieving the land of the *shamlat deh* or not. It was also an issue as to whether the petition under Section 42 could have been filed after such a long delay. It is argued that respondent No.1 has not taken into consideration the original petitions as it is found mentioned in his impugned order that "In compliance of the above said orders of the Hon'ble High Court, the matters have been heard from the impugned orders as found in the petitions preferred before the High Court as the original petitions were not found in the office of Deputy Commissioner, Roopnagar".

Counsel for the petitioners has submitted that respondent No.1 did not ask for even the copies of the petitions filed by them and proceeded on to decide on the issue of jurisdiction without considering the fact as to whether the petitioners before him were entitled to the relief as prayed and as to whether they were entitled to more land of 'C' grade instead of 'A' grade as per the scheme.

Be that as it may, counsel for the both the parties are *ad idem* that the decision of respondent No.1 requires reconsideration and, therefore, both have prayed that the impugned order may be set aside and the matter may be remanded back to him to decide the same strictly in terms of the earlier order passed by this Court dated 06.07.2015 while deciding the earlier petitions.

Thus, in view of the aforesaid facts and circumstances, the present petitions are hereby allowed. The impugned orders dated 01.07.2016 are hereby set aside and all the cases are remanded back to respondent No.1 to decide it again strictly in terms of the earlier order

passed by this Court in the bunch of cases which were decided having the lead case civil writ petition No.5997 of 1993 titled as 'Kartar Singh and others Vs. Additional Director, Consolidation of Holdings, Punjab and others' decided on 06.07.2015.

It is needless to mention that the Municipal Council, Roopnagar shall also be heard in case any representation is made on their behalf.

Before parting, it is pertinent to mention that in case the original petition is not found, as earlier stated by him in his order, then respondent No.1 shall give an opportunity to the parties to reconstruct the record for the purpose of determination of the dispute involved in these cases.

The parties are directed to appear before him on 27.11.2019.

Respondent No.1 is further directed to decide all the cases remanded to him expeditiously but preferably within a period of six months from the date of appearance of the parties.

(RAKESH KUMAR JAIN)
JUDGE

(ARUN KUMAR TYAGI)
JUDGE

23.10.2019
Vinay

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