

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

CWP-27338-2019

Date of Decision: 28.11.2019

Nagar Council Raikot, Tehsil Raikot, District Ludhiana

. Petitioner

Vs.

State of Punjab and others

. Respondents

**CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN
HON'BLE MR.JUSTICE ASHOK KUMAR VERMA**

Present: - Mr.Harpreet Singh Gharuan, Advocate,
for the petitioner.

RAKESH KUMAR JAIN, J.

The petitioner has challenged the orders dated 27.6.2007 passed by the Consolidation Officer, dated 19.08.2009 passed by the Settlement Officer, dated 22.3.2011 passed by the Assistant Director Consolidation and dated 28.11.2018 passed by the Director Land Record-cum-Consolidation.

In brief, a petition under Section 42 of the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948 [for short 'the Act'] was filed by one Kesar Singh in which it is alleged that he was allotted deficient area of 3 bighas 12 biswas which has come in the road whereas there is an excess area of 4 kanal 9 marla with the respondent. The said petition was disposed of by the Director Land Records on 31.8.2005, remanding it to the Consolidation Officer with a direction that he would provide an opportunity of hearing to the concerned parties, inspect the spot, calculate the deficient area or allotted in excess, keeping in view the entitlement of the parties and then deficiency be made good from the party having excess area received on account of construction of the road. The said

order of remand was not challenged and became final. The Consolidation Officer, after remand, passed the order accordingly after obtaining the spot inspection report from Tehsildar, Raikot and made the necessary amendments in order to make the deficiency good. The said order was challenged by way of an appeal filed under Section 21(3) of the Act. Although it was argued by the appellant therein that if the deficiency has been caused due to the construction of the road then it should be made good from the bachat land of jumla mustarka malkan but the Settlement Officer had followed the directions issued by the Director Land Records in his order dated 31.08.2005 and dismissed the appeal. Thereafter the petitioner had filed further appeal under Section 21(4) of the Act before the Assistant Director Consolidation, which was also dismissed and against the said order two appeals were filed, one by the petitioners and other by the private person. Both the appeals were taken up together and the Director Land Records did not find any error in the orders passed by the Consolidation Officer on 27.6.2007, Settlement Officer Consolidation dated 19.8.2009, Assistant Director Consolidation dated 22.3.2011 rather it was held that the order dated 31.8.2005 passed by the Director Land Records has not been challenged by the petitioner and as a consequence thereof, the said order dated 31.8.2005 has attained finality which cannot be tinkered with in the subsequent proceedings on merits as it would tantamount to review of the said order.

Learned counsel for the petitioner has though vehemently argued that by virtue of the impugned orders, the public property is going to be damaged, namely, the stadium but he cannot find any kind of fault in law in respect of the findings recorded because the basic order was passed on 31.8.2005 by the Director Land Records in which certain directions were

issued while remanding the matter back to the Consolidation Officer, who has followed the said directions in its letter and spirit and was not supposed to divert from the said directions. If the petitioner was aggrieved against the order dated 31.8.2005, it should have challenged the said order before the appropriate forum/court but in the absence of its challenge, it had become final and cannot be challenged thereafter. No other point has been raised.

In view of the aforesaid facts and circumstances, we do not find any reason to interfere in this petition and the same is thus hereby dismissed though without any order as to costs.

(RAKESH KUMAR JAIN)
JUDGE

(ASHOK KUMAR VERMA)
JUDGE

28.11.2019

Vivek

Whether speaking /reasoned : *Yes/No*

Whether Reportable : *Yes/No*