

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

CWP-28695-2019

Date of Decision: 14.10.2019

Richhpal and others

. Petitioners

Vs.

Commissioner, Hisar Division, Hisar and others

. Respondents

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

Present: - Mr.Paramjit Singh Jammu, Advocate,
for the petitioners.

RAKESH KUMAR JAIN, J.

The petitioners have challenged the order dated 12.12.2017 by which their application filed under Section 42 of the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948 [for short 'the Act'] has been dismissed.

The petitioners have prayed for 3 karam wide passage from Killa No.229//1 to 3 adjoining to the Southern dol of Killa No.230//5/2 alleging that they have not been granted the passage to their field falling in Killa No.220//17/2-18-20/2-23/2-24/1 and 229//1-2-3 at the time of consolidation. It is alleged that they have been going to their field from East-South corner of Killa No.230//5 and from South of 229//1/1. However, the case of the respondents is that the petitioners became the owners by purchasing the land on 23.02.1976 and there is no scope under Section 42 of the Act for providing passage to the persons who have purchased the land after consolidation. It has been found by the Commissioner, Hisar Division, Hisar that the process of consolidation in the village was over in the year

1964-65 and at that time Rama son of Lekh Ram son of Ram Kishan was the owner of Killa No.220//17/2-16-20/2-22-23/2-24/1 and 229//1-2-3 falling in Khewat No.530 and after his death Harpiari widow of Rama became the owner through inheritance and sold Killa No.229//1/2-2 to Het Ram, Ram Sawrup, Richhpal, Balwant and Om Parkash sons of Ram Chander by way of registered sale deed No.3202 dated 23.02.1976 and she had suffered a decree regarding Killa No.229//22-23/2 and Khasra Nos.26, 890 and 2183 in favour of Mani Ram son of Baga Ram son of Bhoma Ram on 19.1.1993. In nutshell, it has been found that the land has been purchased by the petitioners after the consolidation proceedings and therefore, no power vests with the authority exercising the power under Section 42 of the Act to grant the passage. Although counsel for the petitioners has argued vehemently that the impugned order is patently illegal but he could not cite any law to the contrary that if the land is purchased after the consolidation without the passage then it can be claimed by filing an application under Section 42 of the Act.

Thus, looking from any angle, we do not find any merit in the present petition and the same is hereby dismissed though without any order as to costs.

(RAKESH KUMAR JAIN)
JUDGE

(ARUN KUMAR TYAGI)
JUDGE

14.10.2019

Vivek

Whether speaking /reasoned : *Yes/No*

Whether Reportable : *Yes/No*