

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

**CWP No.20476 of 2020
Date of decision: 11.12.2020**

Sandeep Kumar

.... Petitioner

Versus

State of Punjab and others

..... Respondents

**CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA
HON'BLE MR. JUSTICE KARAMJIT SINGH**

Present: Ms. Shivya Sehgal, Advocate
for the petitioner.

KARAMJIT SINGH, J.

The petitioner has filed this writ petition under Article 226/227 of the Constitution of India seeking quashing of impugned letter dated 31.08.2020 (Annexure P-8) issued by respondent No.3, restraining the petitioner from raising construction in the land in question.

2. The case of the petitioner as pleaded in the petition is that there was no passage to his land. On this, the petitioner approached the Director, Land Records, Punjab under Section 42 of the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948 (hereinafter referred to as 'the Act'). The aforesaid authority sent the matter to District Revenue Officer-cum-Consolidation Officer to ascertain whether there is any proper

passage to the land of the petitioner. Pursuant to that, Consolidation Officer, Jalandhar, vide letter dated 21.05.2013 sought report from Tehsildar Phillaur. On which, the said Revenue Officer gave his report dated 20.06.2013 (Annexure P-4) to the fact that there was no passage to the land of the petitioner. The authorities also took the approval of the department and the Consolidation Officer himself inspected the spot on 06.12.2013. Finally, the Consolidation Officer, Jalandhar passed order dated 17.02.2014 (Annexure P-7), in accordance with law, whereby passage was provided to the land of the petitioner and in lieu of the area of said passage, the petitioner gave some of his land to Gram Panchayat of the village. No one challenged the said order. Now, respondent No.3 issued impugned letter dated 31.08.2020 (Annexure P-8) to the petitioner directing him to stop raising construction in the land in question. The said letter is totally illegal being contrary to the order dated 17.02.2014 (Annexure P-7).

3. We have heard learned counsel for the petitioner and gone through the record.

4. Learned counsel for the petitioner contended that the competent authority passed order Annexure P-7, in accordance with law, pursuant to the directions given by the Director Land Records, Punjab vide order dated 30.01.2013 (Annexure P-1) with regard to providing a passage to the land of the petitioner. Accordingly, passage was provided to the land of the petitioner, out of the land

belonging to Gram Panchayat. In lieu of the said passage, the petitioner gave area equivalent to the said passage to the Gram Panchayat. It is further contended that no one challenged order Annexure P-7 passed by the Consolidation Officer and as such, it has attained finality. The petitioner has got every right to use the land in question being its owner, on the basis of order Annexure P-7. It is further contended that the letter Annexure P-8 issued by respondent No.3 restraining the petitioner from raising any construction in the site in dispute, is totally illegal and misconceived. Thus is liable to be set aside.

5. We have considered the submissions made by the learned counsel for the petitioner.

6. It is the case of the petitioner that there was no passage to his land and later on, he was provided passage vide order Annexure P-7 by the Consolidation Officer, in accordance with law. The petitioner has impugned letter Annexure P-8, whereby, respondent No.3 has restrained him from raising any construction in the aforesaid passage/site in dispute.

7. From the perusal of order Annexure P-7, it transpires that the aforesaid passage was given to the petitioner out of the land belonging to Gram Panchayat and in exchange thereof, the petitioner gave area equal to the said passage to Gram Pachayat. So it is clear that the land belonging to Gram Panchayat was given to the petitioner in exchange of his land. As per Rule 5 of the Punjab Village

Common Lands (Regulation) Rules, 1964, such type of exchange of land by the Gram Panchayat requires prior approval of the State Government. In the instant case, the petitioner has failed to produce copy of any such approval given by the State Government.

8. Also as per order Annexure P-7, it transpires that the site in dispute was given in exchange, to the petitioner by the Gram Panchayat, to be used as a passage only and not for any other purpose. From the perusal of impugned letter Annexure P-8, it transpires that the petitioner started raising construction in the said passage/site in dispute.

9. We are of the view that the petitioner has got no right to raise construction in the said site which is meant only for the purpose of passage. So respondent No.3 rightly issued letter Annexure P-8, asking the petitioner to stop raising any further construction at the spot.

10. In the light of the above discussion, we are of the view that no ground is made out to interfere in the matter.

11. Accordingly, this writ petition is hereby dismissed being devoid of merits.

(RAJAN GUPTA)
JUDGE

(KARAMJIT SINGH)
JUDGE

11.12.2020

Dinesh

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No