

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

CWP No.1685-2021

Date of Decision: 25.01.2021

DALJIT KAUR

....PETITIONER..

VS.

STATE OF PUNJAB AND OTHERS

....RESPONDENTS..

**CORAM: HON'BLE MR. JUSTICE JASWANT SINGH
HON'BLE MR. JUSTICE SANT PARKASH**

Present : Mr. Sarju Puri, Advocate,
for the petitioner.

Mr. Navdeep Chhabra, DAG, Punjab.

SANT PARKASH , J.

*(The aforesaid presence is being recorded through video conferencing
since the proceedings are being conducted in virtual court)*

Petitioner by way of present writ petition has sought issuance of a writ in the nature of Mandamus directing respondent No.4-Tehsildar, Banga to take further necessary action in compliance with the orders dated 06.03.2019 (P-2) and 22.01.2020 (P-3), passed by respondent No.2 and 3 respectively, whereby the claim of the petitioner for providing path to her land has been allowed under Section 42 of the East Punjab holding (Consolidation and Prevention of Fragmentation) Act, 1948.

Brief facts of the case are that the petitioner purchased land measuring 7 kanal 4 marla, out of 8 kanals comprising Khasra No.14//25 (8-0), khewat No.7 and the remaining land measuring 16 marla remained

under the ownership of Central Government, which was recorded as *gair mumkin rasta*. After the aforesaid purchase, Khasra No.14//25 was bifurcated into two khasra numbers i.e. 14//25/1 measuring 7 kanal 4 marla and khasra no.14//25/2 measuring 16 marla as *gair mumkin rasta*. Petitioner was allotted an area measuring 10 marla out of aforesaid khasra No.14//25/2 on 05.08.1978 and in this regard mutation No.1117 dated 30.01.1983 was also entered and sanctioned on 23.02.1983. Since there was no path provided to the aforesaid land of the petitioner by the consolidation authorities, the petitioner filed a petition bearing No.253/2011 under section 42 of the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948 before respondent No.2, seeking provision of the path from the land situated on the eastern side of khasra No.14//25. Respondent No.2 vide order dated 06.03.2019, came to the conclusion that it was necessary to provide a path to the land of the petitioner and since the said exercise could be appropriately carried out at the lower level, therefore, while accepting the petition, the case was remanded to respondent No.3 to pass a speaking order with regard to provision of a path to the land of the petitioner after inspecting the record as well as the factual position obtaining at the spot. The said order has attained finality as the same was never challenged by any of the private parties before the Director at any stage. In pursuance of aforesaid remand order, respondent No.3 vide order dated 22.01.2020, took up the proceedings and after inspecting the spot as well as the revenue record, ordered that the land of the petitioner comprised in khasra No.14//15, 16 be provided a path of 6 marla area from the

eastern side of khasra No.14//25/2 and be recorded as *gair mumkin rasta* in the revenue record and the said path be kept as joint and common between all the co-owners. It was further ordered that the short fall in the area of the passage be made good from the land of the petitioner and accordingly, the case was sent to respondent No.4-Tehsildar, Banga to carry out the necessary entries in the field book as well as the revenue record. Thereafter, on instructions issued by respondent No.4-Tehsildar, Revenue field staff i.e. Halqa Patwari and Girdawar entered a *fard badar* No.1 dated 04.05.2020 after inspecting the previous revenue record from the year 1961-62 onwards and recommended that the entry of said *fard badar* was liable to be sanctioned and there would be no effect on the ownership of any of the co-owners. However, despite submission of aforesaid *fard badar* by the Revenue Field Staff on 04.08.2020, respondent No.4 failed to take further necessary action and pass appropriate orders in the matter so as to comply with orders dated 06.03.2019 and 22.01.2020 passed by respondents No.2 and 3 respectively.

Learned counsel for the petitioner submits that though petitioner through her son moved representation/application dated 21.12.2020 before respondent No.4 seeking expeditious disposal and passing of necessary orders in respect of the *fard badar* lying in the office of Tehsildar, Banga, but no response has been received till date.

Notice of motion.

At the asking of the Court, Mr. Navdeep Chhabra, DAG, Punjab has put in appearance on behalf of the respondent/State and on

instructions from, Mr. Vipin Bhandari, District Revenue Officer (Additional charge of Tehsildar, Banga) submits that he is ready to comply with orders dated 06.03.2019 and 22.01.2020 passed by respondents No.2 and 3 respectively.

In view of the submission made by learned State counsel, instant petition is disposed of with direction to respondent No.4 to comply with aforesaid orders dated 06.03.2019 and 22.01.2020 positively within next 4 weeks, failing which, respondent No.4 shall make himself/herself liable to be hauled up in contempt proceedings.

(JASWANT SINGH)
JUDGE

(SANT PARKASH)
JUDGE

25.01.2021
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whether speaking/reasoned: Yes/No
whether reportable: Yes/No