

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

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Civil Writ Petition No.22447 of 2021 (O&M)
Date of Decision: December 7th, 2021

Pawan Kumar

...Petitioner

Versus

The State of Haryana and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH
HON'BLE MR. JUSTICE SANDEEP MOUDGIL**

Present: Mr. Jayoti Parshad Sharma, Advocate
for the petitioner.

AUGUSTINE GEORGE MASIH, J. (ORAL)

CM No.18354-CWP of 2021

Prayer in this application is for placing on record the documents.

Application is allowed subject to just exceptions.

Documents filed in compliance with the order dated 03.11.2021
passed by this Court are taken on record.

CWP No.22447 of 2021

Challenge in this writ petition is to the order dated 08.03.2016
(Annexure P-5) passed by the Tehsildar-cum-Consolidation Officer, Nilokheri,
District Karnal and order dated 15.07.2021 (Annexure P-8) passed by the
Commissioner, Karnal Division, Karnal, exercising the powers of Director,
Consolidation, Haryana, whereby the application moved by private
respondents No.4 and 5 Vijay Singh and Manjeet Singh sons of Kartar Singh
has been allowed and they have been granted the passage.

On the last date of hearing i.e. 03.11.2021, following order was
passed:-

*“Learned counsel for the petitioner is directed to place
on record sites/map/akshijra indicating the Rasta which was*

initially provided during the consolidation to the private respondents and the one which has now been granted to them on acceptance of their application which has been moved under Section 42 of the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948.

Apart from that counsel for the petitioner shall also place on record the report of the District Revenue-cum-Consolidation Officer, Karnal dated 18th February, 2018 which finds mention in the order passed by the Appellate Authority on 15th July, 2021 (Annexure P-8).

Adjourned to 7th December, 2021.”

In pursuance to the said order, site plan as it existed and the proposed *rasta* now after the passing of the impugned orders have been placed on record as Annexure P-9 and P-10 respectively.

Perusal of these site plans would show that earlier during the consolidation proceedings, no *rasta* admittedly was provided to private respondents No.4 and 5. It is now that they have approached for grant of the said *rasta*, which has been so provided vide the impugned orders. The land which is being utilized for providing the said *rasta* was of the petitioner, which has been duly compensated with the land given to the petitioner from the land of the private respondents No.4 and 5.

Learned counsel for the petitioner has asserted that the private respondents No.4 and 5 are using and utilizing the *rasta* from the land of respondent No.6-Daya Ram from the date of consolidation and they had actually sought *rasta* from the said land, whereas the authorities have proceeded to grant *rasta* from petitioner's land. His further assertion is that the present application would not be maintainable in the light of the judgment of the Hon'ble Supreme Court in ***Gram Panchayat, Kakran***

Versus Addl. Director of Consolidation 1997 (4) R.C.R. (Civil) 498 as there is inordinate delay on the part of respondents No.4 and 5 to approach the authorities for grant of *rasta*. It has further been stated that the order passed by the authorities is not on proper appreciation of the facts of the case.

We have considered the submissions made by the counsel for the petitioner and with his assistance, have gone through the pleadings and the records of the case.

As mentioned above, we have already seen the site plans which have been placed on record by the petitioner and have come to the conclusion that the *rasta*, which has been provided to respondents No.4 and 5, is in accordance with the requirement and the purpose for which it has been sought.

As regards the objection of the petitioner for the delay on the part of respondents No.4 and 5 for filing the application for providing *rasta* on the basis of the judgment in Gram Panchayat, Kakran's case (*supra*), the said contention of the counsel for the petitioner cannot be accepted as the judgment passed by the Hon'ble Supreme Court was based on totally different facts, where the scheme was under challenge and there was change sought to be made in the said scheme, whereas in the present case, it is an admitted position that respondents No.4 and 5 in the scheme have not been provided any *rasta* and vide the impugned orders they have been provided the said *rasta*.

Assertion of the counsel for the petitioner that the authorities have not appreciated the factual position that private respondents No.4 and 5 have been utilizing the *rasta* from the land of respondent No.6-Daya Ram

and, therefore, the *rasta* should have been provided from the land of the said respondent, suffice it to say that the competent authority has rightly appreciated the said fact and come to the conclusion while granting the private respondents No.4 and 5 the passage as mentioned above.

That apart, the assertion of the counsel for the petitioner that the land of Daya Ram would give them direct access to the land, the said assertion of the counsel for the petitioner cannot be appreciated as the site plan which has been placed on record do not depict the land of Daya Ram-respondent No.6, therefore, it cannot be said that respondents No.4 and 5 would get a better access than what has been provided by the authorities.

In view of the above, finding no merit in the present writ petition, the same stands dismissed.

(AUGUSTINE GEORGE MASIH)
JUDGE

December 7th, 2021
Puneet

(SANDEEP MOUDGIL)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No