

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

**CWP-12581-2019 (O&M)
Date of Decision: 10.10.2022**

KOMAL SINGH

..... Petitioner(s)

Versus

STATE OF PUNJAB AND OTHERS

..... Respondent(s)

**CORAM:- HON'BLE MRS. JUSTICE LISA GILL
HON'BLE MR. JUSTICE HARSH BUNGER**

Present: Mr. Virender Pratap Singh, Advocate
for the petitioner.

Mr. K.S. Kang, Senior D.A.G. Punjab.

Mr. Sanjeev Soni, Advocate
for respondent no.2.

LISA GILL, J.

Prayer in this writ petition is for quashing of order dated 23.04.2018 (Annexure P-5), passed by the District Revenue-cum-Consolidation Officer, Amritsar and order dated 26.09.2018 (Annexure P-6), passed by the Director Land Record, Punjab, Jalandhar.

Petitioner, it is submitted was aggrieved of encroachment of his land by the adjoining Rajwaha/drain. It is submitted that land of the petitioner, measuring 03 Kanals was found to be encroached as per demarcation which was carried out on 30.06.2012 (Annexure P-3) under orders of the Tehsildar-Cum-Assistant Collector, Grade-I, Amritsar-II. Petitioner, thereafter is stated to have filed a petition under Section 42 of the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948 (hereinafter referred to as 'the Act'). Director Land Record, Punjab

remanded the matter to the District Revenue-cum-Consolidation Officer, Amritsar with a direction that in case any correction is required in the revenue record prepared at the time of consolidation in respect to the area allotted to the petitioner or his ancestors, necessary orders be passed.

It is submitted by learned counsel for the petitioner that it transpired that petitioner's village where the land in question is situated, had been included in the municipal limits of the Municipal Corporation, Amritsar. It is alleged that there was insistence by respondent no.4 that necessary correction in the order of remand dated 20.09.2017 should be carried out wherein the Municipal Corporation, Amritsar should be impleaded as a necessary party. Though, Municipal Corporation could have been impleaded as party before respondent no.4, the matter is reflected to have been dismissed as withdrawn before the District Revenue-cum-Consolidation Officer, Amritsar on 23.04.2018. It is submitted that petitioner being an ignorant, uneducated eighty (80) year old man, was completely dependant upon his counsel and had no clue about the matter.

Learned counsel for the petitioner further submits that the petitioner was advised to seek modification of order dated 20.09.2017 to the extent that Municipal Corporation be impleaded as party in the place of Gram Panchayat, Fatehabad. Petitioner again represented by the same counsel as before, instead of filing an application for modification of earlier order dated 20.09.2017, filed another petition under Section 42 of the Act.

Said petition was dismissed by the learned Director Land Record, Punjab vide impugned order dated 26.09.2018 while observing that no documentary proof has been submitted regarding Municipal Corporation, Amritsar being a necessary party in respect to the land in dispute and that

the matter had been withdrawn by the petitioner voluntarily before the District Revenue-cum-Consolidation Officer, Amritsar. Furthermore, necessary orders as regards the concerned Gram Panchayat, it is observed, already stood passed on 20.09.2017. Accordingly, the petition was dismissed.

Learned counsel for the petitioner reiterates that petitioner is an old uneducated person having no knowledge of the intricacies of law, therefore, he should not be made to suffer for any misadventure, if any, on the part of his counsel.

Heard.

Notice of motion was issued in this writ petition while observing as under:-

“The prayer of the applicant is for permitting the impleadment of Municipal Corporation, Amritsar, in the proceedings which were pending before the Consolidation Officer for correction of revenue records as per the demarcation report dated 30.06.2012 (Annexure P3), which has been declined and the entire proceedings protracted by adopting hyper technical approach of getting the Municipal Corporation, Amritsar, impleaded from the stage of initial proceedings under Section 42 of the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948.”

Short reply on behalf of respondent no.2 by way of affidavit of Harbir Singh, Commissioner, Municipal Corporation, Amritsar, has been filed. It is stated that village Fatahpur was included in the limits of Municipal Corporation, Amritsar and Ward no.71 has been carved out in the said area. It is further stated that petitioner is at liberty to file a petition

against the Municipal Corporation, Amritsar, who is the owner in possession of the land in dispute so long as the Corporation is given an opportunity to contest petitioner's claim before the Court of competent jurisdiction. Though, learned counsel for the respondents have submitted that petitioner himself withdrew his petition before the District Revenue-cum-Consolidation Officer, Amritsar, it is an admitted position that land in question is within municipal limits of the respondent-Corporation. It is the categorical stand of the Municipal Corporation that it is the owner in possession of the land in dispute. There was in fact no impediment which was pointed which prevented the Revenue-cum-Consolidation Officer from allowing an opportunity to the petitioner to prefer necessary application for impleadment of the Municipal Corporation.

Learned counsel for respondent-Corporation does not raise any serious objection in case matter is remanded to the District Revenue-cum-Consolidation Officer, Amritsar and decided in accordance with law on the basis of available record by impleading M.C., Amritsar as party and after affording due opportunity to the Corporation to present its case.

Keeping in view the peculiar facts and circumstances of the case and without treading into the question of maintainability etc. of the second petition on which order dated 26.09.2018 was passed or the manner in which petition before the District Revenue-cum-Consolidation Officer, Amritsar was withdrawn, order dated 23.04.2018 passed by the District Revenue-cum-Consolidation Officer, Amritsar and order dated 26.09.2018 passed by the Director, Land Record Punjab, Jalandhar are set aside and the matter remanded to the District Revenue-cum-Consolidation Officer, Amritsar.

In view of the categoric stand of the parties, respondent-Corporation shall necessarily stand impleaded as a party to the petition. It shall be incumbent upon the petitioner to move an appropriate application in this regard on or before 14.11.2022. The District Revenue-cum-Consolidation Officer, Amritsar shall decide the matter in accordance with law, expeditiously after affording due opportunity of hearing to the petitioner as well as respondent no.2. Parties to appear before the District Revenue-cum-Consolidation Officer, Amritsar on 14.11.2022.

This writ petition is disposed of in the aforesaid terms.

(LISA GILL)
JUDGE

10.10.2022
Sunil

(HARSH BUNGER)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No