

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

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Civil Writ Petition No.9747 of 2022

Date of Decision: May 10th, 2022

Gurmeet Singh

...Petitioner

Versus

The Director, Land Records-cum-Director Consolidation, Jalandhar
and another

...Respondents

**CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH
HON'BLE MR. JUSTICE JASJIT SINGH BEDI**

Present: Mr. U.K. Agnihotri, Advocate
for the petitioner.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Challenge in this writ petition is to the order dated 03.03.2021 (Annexure P-6) passed by the Director, Land Records-cum-Director, Consolidation, Jalandhar-respondent No.1, whereby application preferred under Section 42 of the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948, for rectification/correction of the revenue record as it is recorded as a *khal* (canal), whereas it is being used as a path from the very inception, has been dismissed.

2. It is the contention of learned counsel for the petitioner that all through although it is recorded in the revenue record after consolidation as a *khal* (canal) but the same is not used for irrigation purpose and is lying dry. It has never been actually used for the said purpose. All the shareholders and land holders are using their own private tubewell for the purpose of irrigation and the said area which is termed as *khal* in the revenue record is being used as a public path by all the people. The application which has been preferred by the petitioner should have been accepted in the light of the fact that there does not exist any *khal* and nor has it been ever used for the said purpose. Prayer has

also been made that the said khal may be termed as public path and continued as such. The rejection of the said prayer on the basis of the report dated 11.12.2018 of the Tehsildar (Sales), Bhulath, which is based upon the *missal haqiat* for the year 1962-63 recording this area as a *gairmumkin khal* for supplying water from the Government tubewell to the other land holders etc. at the time of consolidation, cannot be a ground for rejecting the said application, when as a matter of fact this land is not being used for the said purpose. He, therefore, prays that the impugned order dated 03.03.2021 (Annexure P-6) cannot be sustained and deserves to be set aside.

3. We have considered the submissions made by learned counsel for the petitioner and with his assistance, have gone through the pleadings and the records but do not find ourselves in agreement with what has been contended by the counsel for the petitioner.

4. The fact remains, as is apparent from the record and *missal haqiat* for the year 1962-63 as prepared at the time of consolidation, the land in question has been earmarked as *gairmumkin khal* in Khasra No.93 (5-17) for providing supply of water from Government tubewell to other landowners and the same is being depicted all through as such. Merely because it is not being used for the said purpose cannot be a ground for changing the revenue record and terming it as a public path as the same is used for the said purpose. The area which has been earmarked during consolidation for a specific purpose cannot be changed without there being justifiable reasons for the same. According to the report of the Tehsildar (Sales), Bhulath, the Government tubewell which is in existence and it is meant for the purpose of irrigating through the said *khal* so earmarked. Since the revenue records all through have been mentioning it as

a *khal*, the nature of the said entry cannot be changed at the behest of a private person.

5. The writ petition being devoid of merit, therefore, stands dismissed.

**(AUGUSTINE GEORGE MASIH)
JUDGE**

May 10th, 2022
Puneet

**(JASJIT SINGH BEDI)
JUDGE**

Whether speaking/reasoned: Yes

Whether Reportable: No