

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

CWP-5829-1995

Reserved on: 22.11.2023

Date of decision: 07.12.2023

CHET RAM AND OTHERS

...Petitioners

Versus

STATE OF PUNJAB AND OTHERS

...Respondents

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MRS. JUSTICE SUDEEPTI SHARMA**

Present: Mr. Kanwaljit Singh, Sr. Advocate with
Mr. K.S. Brar, Advocate
for the petitioners.

Mr. Maninder Singh, DAG, Punjab

Mr. Jatinder Singla, Advocate and
Ms. Shivani Singla, Advocate
for respondent No.54-Gram Panchayat.

Mr. B.P.S. Thakur, Advocate for
Mr. Vikas Chatrath, Advocate
for respondent No.95.

SURESHWAR THAKUR, J.

1. One Dalip Singh son of Shri Bogha Singh, instituted against the Gram Panchayat of village Alohran, Tehsil Nabha, District Patiala, a petition cast under Section 42 of The East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948 (hereinafter referred to as “the Act”).

2. In the said petition, the petitioner claimed that an unlawful or impermissible cut for the relevant purpose became made from the estates of the estate holders concerned, thus by the Consolidation

Officer. Therefore, the petitioner contended, that the said made cut, tantamounts to a clerical mistake, and, the excessive impermissible cuts, as, made from the estates of the estate holders concerned, thus be declared to be null and void, and, that the petition lands be ordered to be re-partitioned vis-a-vis the estate holders concerned.

3. On the said petition Annexure P-6 became rendered, on 01.08.1992, thereby the same being allowed, and, whereby the lis was remanded to the Consolidation Officer concerned, with a direction to redistribute the excess lands amongst the right holders, as per their shares, after deducting/reserving lands for common purpose, besides to make entries of their share in the record of rights.

4. The aggrieved therefrom one Chet Ram, the petitioner herein preferred, a petition under Section 42 of the Act, whereby he challenged, the order (Annexure P-6), and, also the order of the Consolidation Officer, Mohali, as, made in pursuance thereof, thus on 24.06.1993. The said challenge was based on the factum that the above orders were made ex-parte. However, thereons through Annexure P-9, the said petition also became dismissed.

5. Nonetheless, a review petition was filed by one Chet Ram, but the said review petition became also dismissed, on the ground, that no review jurisdiction is vested in the Authority concerned. The said dismissal order is embodied in Annexure P-13. Consequently, one Chet Ram is led to challenge the impugned orders before this Court.

6. Though Annexure P-6, and, the order made in pursuance thereof by the Consolidation Officer, Mohali on 24.01.1995, though apparently are causing grievance to the Gram Panchayat concerned, yet

the Gram Panchayat concerned, except for in its reply asking for the said orders becoming quashed, and, set aside rather has omitted to file a writ petition, thus impugning the above made orders.

7. Be that as it may, irrespective of no challenge being made by the Gram Panchayat concerned, to the impugned orders, yet what startles the judicial conscience of this Court, is that, the jurisdiction exercised, under Section 42 of the Act of 1948, by the learned Collector concerned, leading him to draw Annexure P-6, is in the completest derogation, of the mandate recorded by the Full Bench of this Court in case bearing No.CWP-2318-2002, titled as 'Parkash Singh and others V. Joint Development Commissioner, Punjab and others' inasmuch as, despite only jurisdiction to correct clerical errors, thus becoming vested in the Authority contemplated under the Act, yet he has proceeded to cause breach to the interdiction carried therein, as relates to his being debarred to proceed to determine the question of title, as relates to the estate holders, rather claiming impermissible imposition of pro rata cut vis-a-vis their respective estates rather by the Consolidation Officer concerned, besides, as relates to his also thereby being debarred to order for redistributing the lands, thus by the Remandee Authority concerned. Contrarily, in the making of the impugned orders, since apparently the Authorities below, have in respect of the core disputed question of title, as arising from (supra), thus exceeded the jurisdiction vested in them.

8. Resultantly, in the wake of the above, the petition succeeds, and, the impugned orders are quashed, and, set aside, and, the lis is remanded to the Director, Consolidation of Holdings, Punjab, Chandigarh to strictly in terms of the facts and evidence available on

record, to discern thereby whether as such, there are clerical mistakes committed, by the Consolidation Officer concerned, and, to also discern from the pleadings and evidence adduced, whether as such, there is a disputed question of title involved in the relevant lis. Furthermore, in case he, thus makes discernments, that as a matter of fact disputed question of title are involved in the relevant lis, thereby he may refrain to exercise his jurisdiction vested in him, rather he may proceed to relegate the parties to institute a civil suit before the Civil Court concerned.

(SURESHWAR THAKUR)
JUDGE

07.12.2023
Ithlesh

(SUDEEPTI SHARMA)
JUDGE

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