

In the High Court of Punjab and Haryana at Chandigarh

CWP No. 14704 of 2022

Reserved on : 8.11.2023

Date of Decision: 4.12.2023

Municipal Council through Executive Officer,
Village Lalru, Tehsil Dera Bassi, District SAS Nagar

.....Petitioner

Versus

State of Punjab and others

.....Respondents

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

Argued by: Ms. Kavita Arora, Advocate
for the petitioner.

Mr. Maninder Singh, DAG, Punjab.

Mr. B.S.Khaira, Advocate
for respondent No. 3.

SUDEEPTI SHARMA, J.

1. The instant writ petition is directed against the order dated 25.8.2021 (Annexure P-1). The said order is rendered by Director, Land Records, Punjab, Jalandhar, through his exercising jurisdiction, as became conferred upon him through Section 42 of the East Punjab Holdings Act (Consolidation and Prevention of Fragmentation) 1948 (for short 'the Act of 1948').

2. A reading of Annexure P-1 discloses Mihaan Singh, who is respondent No. 3 in the present petition filed a petition under Section 42 of the Act of 1948 contending therein that at the time of consolidation of village Dappar, Tehsil Dera Bassi his father Gamma son of Gaimda was allotted non-owned (gair malik) area 0B-2B vicinity and 0B-1B Rude vide Resolution No. 6 Sr. No. 50. However, entry of the said allotment was not

made in the last record. Similarly vide Sr. No. 51 area 0-2 vicinity and 0-1 Rudi was allotted to Sako son of Mamaddin as non-owner. Further in the last record of the consolidation, name of the father of the petitioner therein i.e. respondent No. 3 herein, was not mentioned in the column of cultivation in the beginning of khasra No. 850, whereby the possession was handed over to him. He further stated that it is the mistake of the consolidation department and it can be corrected under Section 42 of the Act of 1948.

3. The claim of respondent No. 3 herein, and, the petitioner in Annexure P-1, was accepted vide order dated 25.8.2021 (Annexure P-1).

Submission(s) of the learned counsel for the petitioner

4. The learned counsel for the petitioner submits that the impugned Annexure P-1 was passed without affording any opportunity of being heard. She further submits that respondent No. 2 has failed to consider the fact that the property in dispute falling in khasra No. 850 measuring 0-3 biswa was a part of Ruri which cannot be allotted to any person and the same can neither be partitioned or allotted and is thus considered to be the part of the panchayat land.

5. She further submits, that the disputed land was in possession as well as under the ownership of Municipal Council Lalru and any agreement entered by respondent No. 3 would not affect the rights of the petitioner-Municipal Council Lalru. Therefore, it is prayed that the instant petition be allowed and the impugned order (Annexure P-1) be quashed and set aside.

6. The primary reason for rejecting the above argument is rested on the ground, that the transition of the disputed land(s) from the erstwhile territory of the Gram Panchayat concerned, occurred in the year 2010 i.e. 19.3.2010 when the Gram Panchayat merged with Municipal Council, Lalru

whereas the consolidation operations were lawfully terminated in the year

1956-57. Therefore, but obviously when in the year 1956-57 no transition of land from the erstwhile territory of the Gram Panchayat concerned to the Municipal Council concerned occurred, the finalized consolidation scheme drawn in terms of the Act of 1948, rather cannot *ipso facto* suffer retrospective annulment.

7. Furthermore, the plain reading of the correction, as made through the making of the impugned order shows that these are purely arithmetical and clerical errors as made by the consolidation officer, which is acceptable as per law. The reason for making the above conclusion is that despite the allotment being made in favour of the father of Mihan Singh (respondent No. 3 herein), the same was not incorporated in the record of rights pertaining to the disputed land. Since the present case pertains to the arithmetical and clerical errors as made by the consolidation officer, therefore the verdict made by this Court in case titled as '***Parkash Singh and others versus Joint Development Commissioner, Punjab***', reported in ***2014(2) RCR (Civil) 721***, debarring the exercising of the jurisdiction, by the authority contemplated under the Act of 1948, to make any adjudication on a disputed question of title, does not apply.

8. Furthermore, though the learned counsel for the petitioner, has also argued, that even otherwise, on transition of the territory of the erstwhile Gram Panchayat concerned, to the Municipal Council concerned, thereby there is no mandate vested, upon, the authorities contemplated under the Act of 1948, to yet proceed to draw consolidation operations, within those territories, which now become entered in the revenue records, to be owned by the Municipal Council concerned.

9. Even the above argument is rejected. The reason for rejecting

Municipal Act, 1911 and in the Act of 1948 giving jurisdiction to the authorities contemplated in the Act of 1948 to transfer the territory of erstwhile panchayat concerned, to the Municipal Council concerned.

10. Even otherwise, even if there is any transfer of lands from the territorial limits of the panchayat concerned, to the territorial limits of the Municipal Council concerned, or to the Municipal Corporation concerned, yet such transfer of lands, may also include agricultural lands, which but are yet continued to be owned by the land owners concerned or by the farmers concerned. Since the object of the enactment of the Act of 1948 is to provide for compulsory consolidation of the agricultural holdings and for preventing the fragmentation of agricultural holdings in the State of Punjab and for assigning or reserving the land for the common purposes of the village, therefore, if the above argument of the petitioner is accepted the whole purpose behind the enactment of the Act of 1948 would be defeated.

11. Consequently, for all the reasons (supra) this Court finds no merit in the instant petition, and, is constrained to dismiss the same.

12. Accordingly, the instant petition is dismissed. The impugned order is maintained and affirmed.

13. The pending application(s), if any, is/are also disposed of.

(SURESHWAR THAKUR)
JUDGE

(SUDEEPTI SHARMA)
JUDGE

December 04, 2023
Gurpreet

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