

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH.**

CWP-12383-2015

Reserved on: 16.05.2023

Pronounced on: 26.05.2023

Harchand Singh and Others

.....Petitioners

Versus

State of Punjab and Others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MR. JUSTICE KULDEEP TIWARI**

Argued by: Mr. Rupinder Khosla, Senior Advocate with
Mr. Aman Sharma, Advocate
for the petitioners.

Ms. Monika Jalota, Sr. DAG, Punjab.

Mr. K.S.Boparai, Advocate with
Ms. Archana Vashisht, Advocate
for respondents No. 3 and 6 to 8.

SURESHWAR THAKUR, J.

Factual Background.

1. The petitioners who are the LR's of deceased Sadhu Singh, become aggrieved from the drawing of Annexure P-24. Annexure P-24 is an order made by the Director, Land Records, Punjab, Jalandhar, on petition bearing No. 243 of 2014. The said impugned order has been drawn in pursuance to an order of remand being made to the said Authority, thus by this Court on 21.11.2014, upon CWP No. 6392 of 1995. The directions, as made in the order of remand are extracted hereinafter.

“.....We have considered the matter in its entirety and

are of the view that the authorities below have failed to take notice of the fact regarding compensation and no findings has been returned for its award on account of improvements like installation of tube-well, Kotha, etc; The authorities have otherwise held that petitioner had raised construction of tube-well and Kotha on the land in his possession. Similarly, the authorities below have not awarded any compensation on account of difference in the valuation of land given to him on the basis of valuation as per Anna's system. The said findings are required to be returned by the authorities under the Act. The authorities below completely ignored the fact that petitioner was deprived of joint Well. More so, the authorities below were required that the matter be decided after taking into consideration all the facts as were directed by this court in CWP No. 2027 of 1981. The authorities below have completely misunderstood the order passed by this court. To the contrary, such findings were required to be made by the authority.

In view of the above, we set aside the order dated 16.11.1994 in part and the matter is remanded to the Additional Director Consolidation of Holdings, Punjab, Chandigarh with a directions to reconsider the above stated two issues in the light of observations made herein above. We also direct the authority to decide the matter expeditiously as early as possible and not later than 3 months from the date of appearance of the parties.....”

2. A reading of the above extracted directions, as, made by this Court, reveal that this Court had made observations, about the statutory authorities, failing to grant compensation to the estate holder concerned, on account of his making improvement(s) upon the relevant tracts of land. Moreover, this Court had also made observations, that no award of compensation was made to the estate holders concerned, on

account of difference in the valuation as per Anna's system.

3. On such failures, but on the above counts, thus by the statutory authorities, that this Court had made a direction upon the remandee authority to bear in mind the observations (supra), and to as such draw a fresh decision on the remanded *lis*.

Submission of the learned counsel for the petitioner.

4. Therefore, the learned counsel appearing for the petitioners contends, that there has been breach of the above observation(s)/direction(s), as carried in the order of remand of the *lis*, to the remandee court. He submits that the said purported violation, to the observations (supra), are explicitly pronounced from yet the remandee court rather impermissibly delegating the jurisdiction assigned to it, thus to the Court of District Revenue-cum-Consolidation Officer, Ludhiana.

Inference of this Court.

5. The above made argument has some merit, as the assignment of jurisdiction by this Court to the Remandee Court, was to be exercised solitarily by the latter, and was not amenable for further delegation, to any other statutory authority, as has been done, through the impugned order of remand (Annexure P-24).

Final Order of this Court.

6. Therefore, on the above ground, there appears to be merit in the writ petition and the same is allowed and after quashing the impugned order (Annexure P-24), a direction is made upon the Director, Land Records, Punjab, Jalandhar, who drew Annexure P-24, to restore the petition bearing No. 243 of 2014, to its original number

and thereafter in terms of the observations (supra), make a fresh

decision on the *lis*, but without his further delegating the jurisdiction of remand, as becomes conferred only upon him, to any other revenue officer below him.

7. The decision on remand of the remanded *lis*, shall be positively made by the remandee Court, within six months from today but after hearing all affected persons concerned.

8. Be that as it may, before parting it is relevant to also refer to the necessity of the remandee Court, to upon its making a fresh decision upon the remanded *lis*, thus to also bear in mind the contents of paragraph No. 2 and 3, as become enclosed in the reply on affidavit furnished to the writ petition, on behalf of co-respondents No. 3 and 6 to 8, contents whereof are extracted hereinafter.

“ 2. The writ petition filed by the petitioner is liable to be dismissed on the ground of concealment of facts and mala-fide on the part of petitioners. The petitioners have challenged the allotment of land made to them during consolidation, which they are holding. But they have sold part of the land allotted to them and they have not disclosed this fact in the writ petition. Harchand Singh petitioner has sold land measuring 10 Kanals to Ujjagar Singh on 12.06.2003 and possession is given in Kila no.26//6, 7/1, and 7/2. This land was of 16 Annas value. Therefore, after taking benefit of allotment, the petitioners are estopped from challenging the allotment.

3. The Harchand Singh petitioner has taken huge loans against the land which he is holding at present under the scheme and after encumbering this land he cannot shift his land to other taks....”

9. Moreover, if evidence in support of the above contention as raised in the above extracted paragraphs of the reply, on affidavit

furnished to the writ petition on behalf of the above respondents, is

adduced, and, which be permitted to be adduced, thereupon it is open to the remandee Court to take a lawful decision, whether in view of the above evidently suppressed material, whether yet the petitioners herein are entitled to secure an order planked upon the observations (supra), as became earlier made by this Court, while making decision(s) respectively upon CWP-2540-1968, CWP-1761-1977 and CWP-2027 of 1981.

10. Accordingly, disposed of alongwith all pending applications, if any.

(SURESHWAR THAKUR)
JUDGE

26.05.2023

kavneet singh

(KULDEEP TIWARI)
JUDGE

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