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

CWP-2905-2018

Date of Decision : 15.05.2023

SHAMSHER SINGH

.....Petitioner

Versus

DIRECTOR LAND RECORDS PUNJAB AND ANR.Respondents

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

Present : Mr. Paritosh Vaid, Advocate
for the petitioner.

Ms. Monika Jalota, Sr. DAG, Punjab.

Mr. Onkar Rai, Advocate
for respondent No. 2 – Gram Panchayat.

SURESHWAR THAKUR, J. (Oral)

1. The present petitioner becomes aggrieved from the making of Annexure P-7, whereby on his petition, as, cast under Section 42 of the East Punjab Holding (Consolidation and Prevention of Fragmentation) Act, 1948, the learned Director, Land Records, Punjab, thus dismissed the said application.

2. The application (supra), was cast before the Authority, who drew the same. The relief claimed therein was for assigning to the petitioner a revenue rasta, but on the premise, that no consolidation rasta rather became reserved in the consolidation scheme, hence for the present petitioner, thus to enable him to exercise his easementary rights thereons.

If so, there was a valid exercisable jurisdiction vested in the Authority concerned, to thus assign a revenue rasta to the present petitioner, but on

the proven factum of such a revenue rasta becoming earlier not assigned to him.

3. It is apparent on a reading of the impugned order (Annexure P-7), that the present petitioner was allotted a tak or a block embodying therein Khasra Nos. 4054, 4055, 4056, and, also he became assigned a revenue rasta to access the above tak (block). The said rasta was occurring on the southern side of khasra No. 4005, which is apparently adjoining a *Gair Mumkin Chhappar*. The said *Gair Mumkin Chhappar* has been assigned in the consolidation scheme to the Gram Panchayat concerned. There appears to have been an obstruction on the part of the Gram Panchayat concerned, thus to debar the present petitioner from his exercising his easementary rights, on the southern part of Khasra No. 4005, and the said obstruction appears to be valid, as adjoining to the said rasta, there is a *Gair Mumkin Toba*. Necessarily any rasta adjoining a *Gair Mumkin Toba*, would necessarily truncate upon the extensions, if any, which may in times to come, thus come be made to the *Gair Mumkin Toba*, besides may ultimately result in the purpose for which the said toba became reserved thus becoming defeated. Therefore, obviously the learned Authority concerned, who drew Annexure P-7, did not invalidate, the said obstruction.

4. Be that as it may, the learned Authority concerned, had also borne in mind the proposals as made by the Revenue Officers concerned, thus for enabling the petitioner to access his lands, as also his homestead, which became allotted to him by the consolidation officer concerned. Since they also unfold, that there is no consolidation rasta thus available to the tak (block) of the present petitioner. Therefore, the present petitioner

did deserve that a rasta is carved out, thus for all the relevant purposes for the petitioner.

5. Even if the impugned order (Annexure P-7) records, the inability of the authority concerned, to assign a revenue rasta to the present petitioner, though which became proposed by the revenue officer concerned, but the said declining is valid, as it ultimately preserves the reservations, as, made for a *Gair Mumkin Toba*. However, though this Court would uphold, the declinings to the petitioner, through the impugned order, the carving of a revenue rasta in and around a *Gair Mumkin Chappar*, but this Court may not be inclined to uphold the declining order, as made by the revenue authority concerned, whereby even in respect of a *Gair Mumkin Ground*, thus the learned Authority concerned, has not thereons assigned any revenue rasta, to the present petitioner.

6. Therefore, after quashing the said part of the impugned order (Annexure P-7), the *lis* is remanded to the learned Authority concerned, to after restoring the *lis* to its original number, to consider the possibility of a revenue rasta being carved from the *Gair Mumkin Ground*, but after hearing all the affected persons concerned. The said decision on the remanded *lis* be made positively within three months from today.

7. Disposed of.

(SURESHWAR THAKUR)
JUDGE

(KULDEEP TIWARI)
JUDGE

15.05.2023
kavneet singh