

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

105

CWP-4608-1996 (O & M)
Date of Decision: 23.04.2024

Jhanda Singh
Versus
....Petitioner

State of Punjab and others
....Respondents

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MR. JUSTICE LALIT BATRA

Present: Mr. Kanwaljit Singh, Senior Advocate with
Mr. K.S.Brar, Advocate
for the petitioner.

Mr. Maninder Singh, Senior Deputy Advocate General, Punjab.

Mr. Sarbjit Singh, Advocate
for respondents No.3, 4, 6 and
for LR's of respondent No.5.

Sureshwar Thakur, J. (Oral)

CM-5971-CWP-2024

1. During the pendency of the instant writ petition, the demise of respondent No.5 – Amrik Singh has occurred on 03.10.2015. It has been averred in paragraph No.2 of the application that the deceased respondent No.5 is survived by his LR's mentioned at serial No.(i) and (ii), as enumerated therein.
2. Since for an adjudication of the instant writ petition, the substitution of the deceased by his LR's is imperative. Therefore, after allowing the asked for substitution, the instant application is allowed.
3. The amended memo of parties, as appended with the application

is taken on record.

4. No notice is required to be served upon the newly added LR-respondents, as they stand represented through their counsel Mr. Sarbjit Singh, Advocate, who has filed a validly executed Vakalatnama in his favour by the LR-respondents.

CWP-4608-1996

1. Learned counsel appearing for the contesting litigants consensually submit before this Court that in the impugned orders, there is no reference, viz-a-viz the scheme istemal, naksha haqdarwar and khatoni paimaish, whereas, only upon references being made to the above documents, thereby the rendition of the impugned orders, thus declaring therein, that the updation of record of rights, did not take place in terms thereof, besides as such, the jurisdiction exercised on a petition under Section 42 of the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948, (hereinafter in short to be referred as 'the Act of 1948'), rather would become a well exercised jurisdiction, as qua thereby any such purported clerical error would become well rectified.

2. Learned counsel appearing for the contesting litigants, also *ad idem* submit, that an order of remand be made to the Director, Consolidation of Holdings, Punjab, Jalandhar, with a direction to him qua his ensuring that the jurisdiction to be exercised on the remanded *lis* rather under Section 42 of the Act of 1948, but becomes a validly exercised jurisdiction, through his proceeding to decide the remanded *lis*, on merits, only when he makes discernment from the records (*supra*), whether the updation of records has taken place in terms thereof. Consequently, this Court after accepting the writ petition and quashing the impugned order makes an order of remand to

Director, Consolidation of Holdings, Punjab, Jalandhar. The contesting litigants are directed to record their respective personal appearance, before the Director, Consolidation of Holdings, Punjab, Jalandhar, on 08.05.2024. The remanded *lis* shall be ensured to be positively decided within two months hereafter, but after hearing all the affected persons concerned.

3. It is clarified, that in case from the documents (*supra*), the Director, Consolidation of Holdings, Punjab, Jalandhar, discerns that as a matter of fact, the dispute which has arisen amongst the contesting litigants, is not relating to correction of any arithmetical or clerical error, thereby, the Director, Consolidation of Holdings, Punjab, Jalandhar, shall relegate the parties to the Civil Court remedy.

4. Disposed of accordingly along with all pending applications, if any.

(SURESHWAR THAKUR)
JUDGE

23.04.2024
Varinder Prashad

(LALIT BATRA)
JUDGE

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