

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-4669-1998 (O&M)
Reserved on: 19.04.2024
Date of decision: 06.05.2024

TARLOK SINGH AND ANOTHER

...Petitioners

Versus

ADDITIONAL DIRECTOR, CONSOLIDATION OF HOLDINGS,
MOHALI AND OTHERS

...Respondents

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

Present: Mr. M.L. Saini, Advocate
for the petitioners.

Mr. Eklavya Darshi, Sr. DAG, Punjab.

Mr. R.S. Chauhan, Advocate,
Ms. Deepika Chauhan, Advocate and
Mr. Rohit Sapehiya, Advocate
for respondent No.2.

SURESHWAR THAKUR, J.

1. Through the instant writ petition, the petitioners have challenged the impugned order dated 8.8.1996, whereby the Additional Director Consolidation of Holdings, Punjab at Mohali, proceeded to in the hereinafter extracted manner make changes in the consolidation scheme.

“That keeping in view the circumstances and facts of the case and as per the Act and Scheme the taks of the petitioner and respondents are ordered to be given proper shape by making following changes so that no body suffers

and Charan Kaur who is having other more two taks across the passage is fitted near that and the tak of the Atma Singh and Lachman Singh also be given proper shape at one place. As at the present their taks are having some small portion of each other's land which has not given straight-line and the petitioner's boundary could also be given the proper shape and within order to facilitate irrigation and cultivation. This petition is accepted with the following changes and the order of C.O. and S.O. dated 12.4.1994 and order dated 12.1.96 are set-aside and quashed. The following changes are ordered accordingly, and are annexed herewith."

2. It appears that prior to the finalization of the consolidation scheme or *prima facie* even post the finalization of consolidation scheme but prior to the updation of records taking place in terms of Section 22 of The East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948 (hereinafter referred to as "the Act"), rather some aggrieved persons, chose to thus on various grounds seek redistribution and repartition of the lands. The said recourses were made in terms of Section 21 of the Act. In the said regard, the relevant motion as became preferred before the Consolidation Officer, resulted in the drawing of P-1, whereby the aggrieved persons-estate holders espousal, that his tak be given proper shape, and, also that his taks which are disjuncted by passages, thus be consolidated on the southern side after drawing his area on the northern side. It appears that the making of Annexure P-1 brought grievance to some other estate holders which led them to prefer an appeal before the Consolidation Officer, Punjab,

Jalandhar, who after accepting the appeal remanded the lis but with certain directions to the Consolidation Officer to decide the lis afresh.

3. The said order of remand is embodied in Annexure P-2 but even the said order of remand became challenged by certain estate holders through a motion being cast before the Addl. Director Consolidation, Punjab, Mohali, who thereons made a common decision on 6.11.1992 (Annexure P-3) whereby he accepted the appeal, besides also set aside the order of Consolidation Officer (Annexure P-1), thus allowing all the objections raised by Sucha Singh. Moreover, through Annexure P-3 an order for restoration of possession to Lachhman Singh was made. Moreover, the author of Annexure P-3 remanded the lis to the Consolidation officer with directions that the objections of Sucha Singh under Section 21(2) of the Act, be heard again and the boundary of his tak adjoining the land of Didar Singh, Atma Singh (petitioner No.2), Charan Kaur, and, Tarlok Singh (petitioner No.1) be made straight.

4. The Consolidation Officer concerned, in pursuant thereto passed Annexure P-4, whereby he proceeded to observe that respondent No.2-Sucha Singh's Tak is already in proper shape and at present he has got almost 90% of his area. It was further observed that the boundaries of the Tak of respondent No.2, thus adjoining the boundaries of Didar Singh, Tarlok Singh (Petitioner No.1) and Atma Singh (Petitioner No.2) rather are already straight. Moreover, boundaries of the land of respondent No.2 in Killa No.11/2 adjoining the land of Charan Kaur were however, made straight after deducting certain area from the Tak of Charan Kaur and giving the same to respondent No.2, and, respectively *vice versa*. Annexure whereof was rendered in terms of an unchallenged

order carried in Annexure P-3, and, which became rendered by the Addl. Director Consolidation, Punjab, Mohali.

5. However, yet the aggrieved estate holder challenged Annexure P-4, through filing an appeal thereagainst before the Settlement Officer, who through Annexure P-5, dismissed the said appeal and accordingly maintained Annexure P-4.

6. The effect of makings of Annexure P-3, by the Addl. Director Consolidation, Punjab, Mohali, and, which resulted in the Consolidation Officer, in pursuant thereto passing Annexure P-4, is that, the jurisdiction as became assumed on petition No.83/96 by the Additional Director, Consolidation of Holdings, Punjab at Mohali, thus was an ill assumed jurisdiction. Resultantly, thereby the assumption of jurisdiction on a litigation which ensued amongst similar litigants thus has been untenably assumed theovers, and, that too on two occasions, besides by the very same authority. Therefore, the decision carried in Annexure P-6, on petition No.83/96 by the Additional Director, Consolidation of Holdings, Punjab at Mohali, is to be construed to be completely flawed.

7. Though, the Settlement Officer rejected the motion as became preferred before him against the makings of Annexure P-4, besides when the said rejection was a well founded rejection, as the making of Annexure P-4 was in pursuant to an unchallenged decision becoming recorded by the Director, Consolidation, Punjab, Mohali (Annexure P-3), but yet with some aggrieved again re-accessing the Additional Director of Consolidation concerned, who through Annexure P-6 reversed Annexure P-3, thus reiteratedly is completely flawed.

8. The reason being that once Annexure P-3 became pronounced by the Director, Consolidation, Punjab, Mohali, there was no occasion for the very same authority to assume jurisdiction over petition No.83/96. Reiteratedly for the reason that the remedy to the aggrieved from Annexure P-3, was to challenge the same before this Court or before the Civil Court of competent jurisdiction rather than the aggrieved filing petition No.83/96 before the Additional Director of Consolidation concerned.

9. Resultantly, in the exercising of jurisdiction twice by the same authority on similar motions but naturally tantamounts to the exercising of review jurisdiction on petition No.83/96, which otherwise is impermissible, as no jurisdiction of review under the Act becomes vested in any of the authorities contemplated thereunders.

10. In nutshell, the instant writ petition is meritworthy, and, the same is allowed, preserving liberties in the aggrieved concerned, to access the Civil Court remedies.

(SURESHWAR THAKUR)
JUDGE

06.05.2024
Ithlesh

(LALIT BATRA)
JUDGE

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