

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

234

CWP-7834-2021

Date of decision: 14.02.2024

KRISHAN AND OTHERS

.....Petitioners

VERSUS

STATE OF HARYANA AND OTHERS

.....Respondents

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present: - Mr. Jagjeet Beniwal, Advocate for
Mr. Ravi Malik, Advocate
for the petitioners.

Mr. Pankaj Mulwani, DAG, Haryana.

VINOD S. BHARDWAJ, J. (Oral)

1. Prayer in the present writ petition is for seeking directions to the respondents to provide field passage/path to the fields of the petitioners and similarly situated villagers.

2. Learned Counsel appearing on behalf of the petitioners contends that the petitioners are resident of village Belarkha, District Jind and co-sharers in Khewat No. 401 Khata/Killa No. 45//11/1/1/19/2,20/2,46//13,14,15,16,17,18,22/2,23,24/1/1,26 as per the Jamabandi for the year 2016-2017. He contends that at the time of consolidation in village Belarkha, District Jind, the Consolidation

Department had provided 3 karam passage (16 and ½ feet passage)

leading to the fields of the petitioners. After consolidation, Bhakhra canal was laid in the year 1996 leading to obstruction in the passage of land of the petitioners. An application was thereafter filed under Section 42 of the East Punjab Holding (Consolidation and Prevention of Fragmentation) Act, 1948 to provide an alternative passage before the Assistant Director Consolidation. Such alternative passage was thereafter provided by the Consolidation Department vide order dated 19.07.1967 through Khasra/Killa No. 63/10/2 E alongside the BML Canal. He contends that the land was acquired yet again by the Irrigation Department for laying burrow pits along B.K.M. Barwasla link from RD 4000 to 61500 vide award No. 32 J dated 29.10.1968. Even though the above said passage was acquired by the Irrigation Department in Killa No. 63/10/2 E but the land adjacent thereto was being used by the petitioners for making access to their fields. It is averred that the Irrigation Department has now constructed a Canal over bridge due to which access to their field is stopped and they have no further passage.

3. Written statement on behalf of respondents has been filed by Executive Engineer, Narwana, Water Services Division wherein it has been averred that insofar as the acquisition of the land is concerned, the compensation due towards the land falling in the passage has already been disbursed to the Gram Panchayat, Belarkha. In the event, the petitioners do not have any access to their fields, an appropriate application is required to be submitted under Section 42 of the East Punjab Holding (Consolidation & Prevention of Fragmentation) Act, 1948 and that the power to provide for such access is only vested with the said authority.

4. Faced with the above, learned Counsel for the petitioner prays that he may be permitted to withdraw the present writ petition with liberty to move an appropriate application before the competent authority in the Consolidation Department for providing a passage and that a direction may be issued to the Consolidation Department that in the event of such an application being preferred by the petitioners, the same is decided expeditiously.

5. Counsel for the respondent-State has no objection to the same. The present writ petition is accordingly disposed of as withdrawn with liberty to the petitioners to approach the Consolidation authority for granting an access to their fields due to an exigency in the form of acquisition of the said land by the Department of Irrigation. In the event of the petitioners preferring such an application for grant of passage before the competent authority, the same shall be decided expeditiously and preferably within a period of four months of effecting service on the concerned parties and after granting an opportunity of hearing to the respective parties.

(VINOD S. BHARDWAJ)
JUDGE

FEBRUARY 14, 2024
Vishal Sharma

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No