



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

105

CWP-11895-2021 (O & M)
Date of Decision: 28.05.2024

Azad

....Petitioner

Versus

State of Haryana and others

....Respondents

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

Present: Mr. S.S.Momi, Advocate
for the petitioner.

Mr. Ankur Mittal, Additional Advocate General, Haryana and
Mr. Saurabh Mago, Deputy Advocate General, Haryana.

Mr. Manoj Chahal, Advocate
for respondents No.3 to 9.

Mr. Birender Singh Rana, Senior Advocate with
Ms. Niharika Singh, Advocate
for respondent No.5.

Sureshwar Thakur, J. (Oral)

1. Chandi Ram and others instituted against Azad and others, 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'), before the Commissioner Hisar Division, Hisar, whereby they claimed the creation of a consolidation *rasta*, thus for the said *rasta* becoming used for theirs exercising thereovers their easementary rights.

2. It is apparent on a reading of paragraph 4 of the impugned order that, the learned Commissioner after examining the relevant records, made a



conclusion that, as a matter of fact, the consolidation *rasta* though was required to be provided to the *Khewatdars*/Estate Holders, yet the said consolidation *rasta* becoming not created. Consequently, he concluded that, the said non-creation of consolidation *rasta* was a sequel of a gross mistake becoming committed by the Consolidation Officer concerned, and resultantly, allowed the petition.

3. Feeling aggrieved therefrom, the respondents in the said petition namely one Azad and others, took to institute the instant petition before this Court, wherebys they make a challenge to the impugned Annexure P/5. Though, the said order is not wanting in legality, inasmuch as, it has made with a sound and well informed reasoning, besides becomes covered by judgments pronounced by this Court, wherebys, upon, the non-creation of a consolidation *rasta* in the consolidation scheme, therebys the authority exercising jurisdiction under Section 42 of the Act of 1948, thus can proceed to create such a consolidation *rasta* for the purposeful benefit of the Estate Holder concerned.

4. Be that as it may, during the pendency of the instant writ petition before this Court, the contesting litigants made a joint address that, there is a possibility of an amicable settlement taking place amongst the contesting litigants, and, therebys they prayed that the *lis* be referred for an amicable resolution thereof being made by the Mediator serving at the Mediation and Conciliation Centre of this Court.

5. The above prayer became accepted by this Court on 14.10.2022, and resultantly, the parties appeared before the Mediator serving at the



Mediation and Conciliation Centre of this Court. The Mediator has submitted his report and a perusal thereof reveals that, the *rasta* has been agreed to be created over Khasra No.56/13 measuring 0 Kanal 13 Marlas (3 Karm). The said khasra number is owned by the petitioner, and, thereover easementary rights have been permitted to be exercised by the respondents.

6. The report of the Mediator further reveals that, in view of the said creation of a *rasta* over the said khasra number, the petitioner has agreed to receive a sum of ₹1,70,000/- and, with a further condition therein that, 14 Marlas of the land will be provided by the present respondents to the present petitioner. It is stated by the counsel that the said order is still required to be implemented through an order becoming passed by the jurisdictionally competent Assistant Collector concerned.

7. The learned counsel appearing for the petitioner submits that, he has received a sum of ₹1,70,000/-, from the respondent. Mr. B.S.Rana, Senior Advocate, appearing on behalf of the respondent, submits that this Court may pass a direction, upon, the jurisdictionally competent Assistant Collector concerned, to upon the parties at *lis* making their respective appearances before him, thus pass an order whereby, right, title and interest over 14 Marlas of land, owned by the private respondents, is conferred upon the present petitioner.

8. Furthermore, the learned Additional Advocate General, Haryana, has also, on instructions imparted to him, forthrightly submitted before this Court that, if this Court proceeds to pass an order, in terms of the report of the Mediator, thereby, the right, title and interest of other Estate Holders in the



Revenue Estate concerned, shall not become affected.

9. Consequently, the petition is disposed of, in terms of the compromise recorded before the Mediator, and, the said compromise shall form a part and parcel of the instant order. A direction is also made upon the Assistant Collector concerned, to upon the contesting litigants, recording their respective appearances before him, to ensure that in terms of the compromise, thus an order of mutation qua the lands concerned, becomes rendered qua the concerned.

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

(SURESHWAR THAKUR)
JUDGE

28.05.2024
Varinder Prashad

(LALIT BATRA)
JUDGE

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