

(2011) 04 P&H CK 0216

High Court Of Punjab And Haryana At Chandigarh**Case No:** Letters Patent Appeal No. 751 of 2011 (O and M)

Sohan Singh

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

Date of Decision: April 28, 2011**Acts Referred:**

- East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948 - Section 21(1), 42

Citation: (2011) 1 ILR (P&H) 74**Hon'ble Judges:** Rakesh Kumar Garg, J; Jasbir Singh, J**Bench:** Division Bench**Final Decision:** Dismissed

Judgement

Jasbir Singh, J.

This appeal has been filed against an order passed by the learned Single Judge on March 10, 2011, dismissing Civil Writ Petition No. 3240 of 2011, filed by the Petitioner.

2. Heard.

3. As per facts on the record, the consolidation proceedings in the village were initiated in the year 1953-54. The consolidation scheme was published on October 24, 1953, and confirmed on April 27, 1954. The repartition was carried on October 15, 1954. As per the repartition, land was allotted to all the right holders in separate Taks as per their entitlement.

4. In the meantime, in an order passed u/s 42 of the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948, (in short the Act), the Director, Consolidation of Holdings, Punjab, on June 1, 1979. and ordered that a fresh scheme be framed as per the provisions of Section 21(1) of the Act. Fresh scheme was accordingly framed. As per that scheme, the allotment was made to the

right holders as per their entitlement. The Appellant laid challenge to the allotment of land made to him by filing an application u/s 42 of the Act on a ground that his major portion has not been properly carved out as per evaluation fixed, regarding his land, which he owned before the start of the consolidation proceedings. His application was accepted vide order dated April 12, 1984 and amendment was made regarding the allotment of land made to the Appellant and to the Respondents therein, as per their entitlement. The said order was challenged by the private Respondents in Civil Writ Petition No. 3111 of 1984, which was disposed of vide order dated December 17, 2004. Relevant portion of the order reads thus:

The fact that there had been consolidation in the year 1953-54, is not disputed. The fact remains that the earlier scheme had been set aside and order Annexure P-1 was made for a new scheme and also for paying special attention to safeguard the interests of such persons as had carried out lot of developments, in their new blocks. Either their major portion should have comprised such land or the same should have been reserved in their favour if they so desired. The idea was to cause least possible disturbances to the existing possession. Ex. P-2 disturbs the position, to a large extent from the position already there.

Learned Counsel for the Respondents has argued that the scheme had not been challenged. No objections to the scheme prepared in the year 1980, had been filed and the Petitioner had no right to come to this Court merely because some land had been taken and some land had been given.

There was consolidation of Holdings in the year 1953-54 and the Petitioner had been given certain land, which remained in his possession upto the new scheme. Even after new scheme and even after order Ex. P2, the same land is still with the present Petitioner which is now since 50 years. Under the circumstances, I find that it will be in the interest of justice and incumbent on the concerned authorities to visit the spot and check the latest position especially when the impugned order Ex. P2 had been made as far back as more than about 20 years back i.e. on 12.4.1984. If the parties have somehow settled in the land in their respective possessions during these twenty years of this order, then possession should not be changed.

5. The above order was not challenged. The matter was again taken up by the Consolidation authorities. Spot inspection was done by a Tehsildar and as per his report, it was found as a matter of fact that the parties were in possession of the land since 1954. On the basis of that report, an order was passed by the Director, Land Records, Punjab, on September 24, 2010, wherein it was observed as under:

The arguments of the party present were considered and record on the file has been perused. The report of Tehsildar Nawanshahr in this case has been considered and in his report dated 28.01.2010, the following conclusion has been drawn:

As per the report of Tehsildar, the possession of the parties is not in accordance with the order dated 12.4.84 passed by Director Consolidation. From this it is clear that the order dated 12.4.84 passed by the Director Consolidation Punjab has not been implemented at the spot and the possessions of the parties are as earlier. The order dated 12.4.84 passed by the Director Consolidation Punjab has been set aside vide order dated 17.12.2004 passed by the Hon"ble High Court. Therefore, this order is also set aside by this Court as well. Order pronounced. File be consigned to record room.

6. The Appellant thereafter filed Civil Writ Petition 3240 of 2011, which was dismissed vide the impugned order.

7. After hearing Counsel for the Appellant, we are satisfied that the order passed by the learned Single Judge is perfectly justified. Order passed by this Court in CWP 3111 of 1984 is very clear, the order Annexure P-2 in that writ petition, vide which after making a large number of changes, land was allotted to the Appellant, was set aside and the matter was remanded back to the competent authority to look into the matter and after spot inspection, if it is found that the parties are in settled possession, the same be not disturbed. We feel that the same has been done by the authorities below. The report made by the Tehsildar indicates that the parties are in settled possession since from the time of original allotment, i.e., 1954. No case is made out for interference. Dismissed.