

Lal Chand v. DIRECTOR CONSOLIDATION, HARYANA, (2022-3)207 PLR 002, 2022 PLRonline 1370

PUNJAB AND HARYANA HIGH COURT

Before: Mr. Justice Augustine George Masih and Mr. Justice Vinod S. Bhardwaj.

LAL CHAND and others – Petitioners,

Versus

THE DIRECTOR CONSOLIDATION, HARYANA and others – Respondents.

CWP No.28033 of 2017

East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948 (50 of 1948) - Order of Director Consolidation challenged beyond a period of 11 years without there being any explanation whatsoever for the delay in approaching the said authority - Assertion has also been made that the Gram Panchayat has been impleaded as a party in the appeal for the first time without the Gram Panchayat being a party at the initial stage when the application was filed leading to the passing of the order - Said order being based upon the statement of a person who was not authorized to make such a statement on behalf of the Gram Panchayat irrespective of the fact that he was Sarpanch of the Gram Panchayat - We, therefore, set aside the impugned order and remand the case back.
[Para 2, 4]

Mr. Adarsh Jain, for the petitioners. Ms. Tanisha Peshawaria, Deputy Advocate General, Haryana for respondent No.1. Mr. Abhimanyu Jangra, for Mr. Rajesh Lamba, for respondent No.2. Mr. R. S. Budhwar, for respondents No.3 and 4.

Augustine George Masih , J. (Oral) - (28th March, 2022) - Challenge in this writ petition is to the order dated 14.03.2008 (Annexure P-10) passed by the Director Consolidation, Haryana, directing the exchange of land of the Gram Panchayat and that too, on the statement of the Sarpanch, without any authorization or resolution to the said effect from the Gram Panchayat, thereby giving up the land as reserved under the consolidation as Charagah in lieu of land of private respondents carving out rasta provided through land of other owners on an earlier application which was allowed vide order dated 22.06.1996 (Annexure P-3), which is a consented order between the private parties without the Gram Panchayat being a party thereto, and for ordering revesting of the land in the Gram Panchayat as per the Consolidation Scheme.

2. It is the contention of the learned counsel for the petitioners that the impugned order cannot sustain in the light of the fact that the said order is based upon the statement made

by the Sarpanch of the Gram Panchayat without any authority. His further contention is that the appeal which has been preferred against the order dated 22.06.1996 (Annexure P-3) being a consented order between the private parties, wherein rasta which was provided to respondents No.3 and 4, was to be provided from the land of Likhi Ram and others. The said consented order made it apparent that it was an arrangement between the private parties with Gram Panchayat not even being a party thereto. Not only this, in pursuance to the said order dated 22.06.1996 (Annexure P-3), even the entries in the revenue records were made. His submission is that the challenge to this order dated 22.06.1996 was laid on 24.08.2007 by way of an application under Section 42 of the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948 before the Director Consolidation, Haryana, beyond a period of 11 years without there being any explanation whatsoever for the delay in approaching the said authority. Assertion has also been made that the Gram Panchayat has been impleaded as a party in the appeal for the first time without the Gram Panchayat being a party at the initial stage when the application was filed leading to the passing of the order dated 22.06.1996 (Annexure P-3). On this basis, he contends that the impugned order dated 14.03.2008 (Annexure P-10) passed by the Director Consolidation, Haryana, cannot sustain and deserves to be set aside.

3. Learned counsel for the Gram Panchayat as well as counsel for respondents No.3 and 4 could not dispute the factual aspect with regard to the assertion as has been made by the learned counsel for the petitioners relating to the statement of the Sarpanch being without any authority as there being no resolution passed by the Gram Panchayat authorizing him to make such a statement before the authority. Although an explanation has been sought to be put-forth by the counsel for the private respondents with regard to the delayed approach to the authorities by way of challenge to the orders dated 22.06.1996 (Annexure P-3) and 24.08.2007 (Annexure P-8) but we would not like to go into the said aspect in the light of the fact that the impugned order dated 14.03.2008 (Annexure P-10) passed by the Director Consolidation, Haryana, cannot sustain on the sole ground that the said order being based upon the statement of a person who was not authorized to make such a statement on behalf of the Gram Panchayat irrespective of the fact that he was Sarpanch of the Gram Panchayat. We, therefore, set aside the impugned order and remand the case back to the said authority for fresh decision on the appeal/application in accordance with law leaving all the questions open for consideration by the said authority including the objections which have been raised by the petitioners in the present writ petition.

4. The writ petition is allowed with a direction to the parties to appear before the Director Consolidation, Haryana, on 19.04.2022. The Director Consolidation, Haryana, shall proceed to decide the appeal/application under Section 42 of the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948 at an early date.

5. Any observation which has been made by us in this order shall not be construed as an expression of opinion on merits of the case.

Sd/- Vinod S. Bhardwaj, J.

R.M.S.

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Petition Allowed