

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CWP No. 4664 of 2002
Decided on : 24-08 2010**

Karam Singh (since dead) through his L.Rs

....Petitioners

VERSUS

The Commissioner, Jalandhar Division, Jalandhar and another

....Respondents

CORAM:- HON'BLE MR. JUSTICE MAHESH GROVER

Present:- Mr.R.S.Chauhan , Advocate for the petitioners.

MAHESH GROVER, J

The petitioner is aggrieved by the order dated 30.1.2002 (Annexure P-8). Vide impugned order the Commissioner, Jalandhar Division ordered as follows:-

“I have heard the learned counsel and gone through the record of this case. I feel that the petition deserves to be accepted and South East should be corrected to South West. Clerical mistake can always be corrected under Section 43(A) and the respondent is not adversely affected by this correction. I accordingly accept the petition.”

The Consolidation Officer determined the rights of the parties vide its order dated 1.8.1988 which order was implemented in toto and reflected in the revenue records as well. Respondent no.1 made grievance out of the said order by pleading that Khasra no. 784 South East 4x2 has

wrongly been included into the share of the petitioner and for this he agitated initially before the Director, Consolidation and then Assistant Collector who declined to interfere in the claim of the petitioner as established by the Consolidation Officer vide his order dated 1.8.1988. The respondent also filed a civil suit for injunction in which he pleaded that this khasra no. has been wrongly included by the Consolidation Officer in the share of the petitioner. But the suit was dismissed and the appeal against that order was also dismissed. It has been admitted by the said respondent that he filed civil suit for injunction and the orders of the Director, Consolidation have been upheld before all the authorities.

In this view of the matter, the Commissioner was clearly in error in exercising its power under Section 43(A) of the East Punjab Consolidation and Prevention of Fragmentation Act, 1948. It is settled principle of law that the order passed by the Consolidation Authorities cannot be reviewed in such a manner. Moreso, when the respondent had failed in various Fora. That apart order dated 30.1.2002 is cryptic and does not give any reason as to why the Commissioner had treated it to be merely clerical error when rights of the parties stood determined in 1988 and stood acted upon. The order is non-speaking to say the least and also bad in law. Therefore, the petition is accepted and the impugned order is hereby set aside.

August 24, 2010
rekha

(Mahesh Grover)
Judge