

CIVIL MISCELLANEOUS

Before Shamsheer Bahadur, J.

DALBARA SINGH AND OTHERS,—Appellants

versus

THE STATE OF PUNJAB AND OTHERS,—Respondents

Civil Writ No. 882 of 1963

*East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act (L of 1948)—S.2 (bb) (iii)—Village roads and paths—Whether include portion of the road passing through the village.*

1964

August, 21st.

Held, that under sub-clause (iii) of clause (bb) of section 2 of the East Pb. Holdings (Consolidation and Prevention of Fragmentation) Act, 1948, as amended by Punjab Act 39 of 1963, "Common purpose" includes, *inter alia*, "village roads and paths". The portion of the road connecting two places passing through the village is none-the-less a village road. The reservation under this sub-clause is not confined to roads and paths which connect different points of the village, but also extends to the portion of the road which passes through the village.

*Petition under Article 226 of the Constitution of India praying that a writ in the nature of Certiorari, mandamus or any other writ, order or direction be issued quashing the scheme of the village Kotli Ablu, tehsil Muktsar, district Ferozepore.*

BALDEV SINGH JAWANDA, ADVOCATE, for the Petitioner.

S. K. KAPUR, ADVOCATE-GENERAL, N. N. GOSWAMI AND NARINDER SINGH, ADVOCATES, for the Respondents.

## ORDER

Shamsher  
Bahadur, J.

SHAMSHER BAHADUR, J.—Ninty-six residents of village Kotli Ablu in Muktsar in Ferozepur District have preferred a number of objections in this petition under Article 226 of the Constitution of India against the draft scheme prepared by the Consolidation authorities, but only three of these have been pressed in arguments by their learned counsel, Mr. Jawanda.

Objection is first taken to the reservation of an area of 245 *kanals* 5 *marlas* for the portion of the road running between Kot Kapura and Sirsa passing through this village. This reservation is made under the newly inserted sub-clause (iii) of clause (bb) of section 2 of the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948, by the Amending Punjab Act No. 39 of 1963. Under this sub-clause 'common purpose' now includes, *inter alia*, "village roads and paths". It is submitted by the learned counsel that a road from Kot Kapura to Sirsa even though it may pass through the village cannot be regarded as a village road or path. This submission, in my opinion, is devoid of any merit or substance. The portion of the road connecting two places passing through the village is none-the-less a village road and path and there is no warrant for the suggestion of the learned counsel that the reservation is confined to roads and paths which connect different points of the village and not such portions as form part of the roads merely passing through the village. All that has to be seen is whether the reservation comes within the four corners of the reservations which constitute 'common purpose' and on a true construction I am unable to reach the conclusion that the portion of the road connecting Kot Kapura and Sirsa and passing through this village is not a village road or path.

The next submission of the learned counsel relates to valuation of trees. When the petition came up for hearing before Harbans Singh, J., a direction was given that the Settlement Officer should be approached to get the trees evaluated. There is a bald assertion that the Consolidation authorities have failed to carry out this direction. Para 5 of the written statement may be perused in this connection wherein the suggestion of the petitioner is rebutted and it

is stated that "the case regarding valuation of trees is being done expeditiously and will be completed very soon". In view of the clear assertion made in paragraph 5 of the written statement, there is no scope to entertain the objection which has been raised by the learned counsel for the petitioners.

Finally, it is urged that the Consolidation Officer has not determined any date for the transfer of possession of the holdings as he was bound to do. Now, when this petition was admitted by a Division Bench of this Court on 28th of May, 1963, it was directed that "dispossessions were to be stayed meanwhile". This order of the admitting Bench was subsequently confirmed in so far as it was directed that the *status quo* with regard to the possession should be maintained. The Settlement authorities have accordingly stayed their hand from effecting any transfers and in paragraph 10 of the written statement it is stated that "further transfer of possession has been stayed in obedience to the stay order granted by this Hon'ble Court in the instant case". There is thus no force in this submission. The authorities will now proceed to fix dates of transference as this petition is being dismissed.

There is no force in this petition which would stand dismissed, but in the circumstances I make no order as to costs.

B.R.T.

Dalbara Singh  
and others  
v.  
The State of  
Punjab  
and others

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Shamsher  
Bahadur, J.