

Padam Nabh Singh And Ors. vs State Of Punjab And Ors. on 8 August, 1977

Equivalent citations: AIR1977SC2001, (1977)79PLR715, (1977)4SCC1, 1977(9)UJ483(SC), AIR 1977 SUPREME COURT 2001, 1977 4 SCC 1, 79 PUN LR 715, 1977 REV LR 559, 1977 REV LR 702, 1977 U J (SC) 483

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Bench: N.L. Untwalia, P.N. Shinghal

JUDGMENT

P.N. Shinghal, J.

1. The appellants who claim to be "right-holders" of village Tripari, tehsil Kharar, in Ropar district of Punjab, have filed this appeal, by special leave, against the appellate judgment of the Punjab and Haryana High Court dated November 27, 1975, upholding the dismissal of their writ petition. The fact leading upto the controversy in this Court are quite simple, and may be shortly stated.

2. A notification was issued by the State Government on November 24, 1972, under Section 14 of the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948, hereinafter referred to as the Act, declaring its intention for the preparation of a scheme of consolidation of holdings for the better cultivation of village Tripari. The Additional Director, Consolidation of Holdings, issued an order on October 15, 1973, reserving same land for the purpose of connecting the village with Badala, Faizgarh, and Nagal villages, and with Kharar where the office of the tehsildar was located. The appellants challenged the notification and the order by means of a writ petition, but it was dismissed on February 2, 1975. It is not necessary to refer to the challenge to the validity of the notification, for it was given up and has not been raised before us. As regards the challenge to the order for the reservation of the land for connecting village Tripari with the other three villages and Kharar, the learned Single Judge took the view that "the land reserved for the purposes of the road connecting these villages is for the common purpose of this village because by the link road the villagers will have access to other villages and also to the tehsil Headquarters." The same view has been taken in the impugned appellate judgment of the High Court.

3. All that has been argued before us by Mr. Mahajan on behalf the appellants is that a link road connecting Tripari with Badala, Faizgarh and Nagal villages was already in existence and that the making of another road for the same purpose could not be said to be a "common purpose" within the meaning of Section 2(bb)(iii) of the Act. Learned Counsel could not however refer to any such plea in the writ petition, so that there is no real basis for raising the new argument in this Court. The

High Court has noticed the definition of "common purpose" in the Act, which includes any purpose in relation to any common need, convenience or benefit of the village in respect of "village roads". It has held that the proposed road for which land has been reserved by the order of the Additional Director of Consolidation dated October 15, 1973 will be "a source of great convenience and benefit to the villagers" The High Court has stated that the road in question will not be a road of the District Board and will be a village road, which will connect Tripari with three other villages and the tehsil town of Kharar. The order therefore falls within the purview of Section 18(c) of the Act which provides for the reservation of land for a "common purpose", and the view taken by the High Court does not call for interference.

4. The appeal fails and is dismissed. There will be no order as to costs in the circumstances of the case.