

lower court is in accordance with the rules and there is no error in it. There is no force in the appeal and the same is dismissed.”

5. It was noted by the officers below that the appellants are in unauthorised occupation of the land reserved for a passage during the consolidation proceedings. It is contention of counsel for the appellants that the appellants are also members of Jumla Mushtarka Maalkaan, who are entered as owners in Jamabandi of the land in dispute and as such they cannot be ejected from that land.

6. As per provisions of Section 18 of the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948, the consolidation authorities have the power to reserve land for common purposes in a village by imposing a pro rata cut upon the right holders. As per provisions of Section 23-A, the land so reserved shall be under the ownership of the Jumla Mushtarka Maalkaan.

7. In view of above, the argument raised by the counsel for the appellants deserves to be rejected. Nothing has been shown on the basis of which any interference can be made by this Court in the orders passed by the Courts below. Dismissed.

**Appeal dismissed.**

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**PUNJAB AND HARYANA HIGH COURT**

**Before: Jasbir Singh & Rakesh Kumar Garg, JJ.**

LPA No.927 of 2011(O&M)

Decided on: 24.05.2011

Tarsem Singh

Appellant

Versus

Financial Commissioner and others

Respondents

For the Appellant:

Mr.Gurpartap Singh Gill, Advocate.

**Punjab Land Revenue Rules, Rule 15 – Appointment of Lambardar – Service to nation -- Respondent No.5 had served in Indian Army for the period of more than 15 years, he had participated in three wars in the years 1961, 1965 and 1971 and was awarded *Shauraya Chakara* for his bravery shown at the time of those wars -- Father of the respondent No.5, who was working as a Lambardar and at whose death vacancy had occurred, also served the nation by participating in the war of independence and the second world war -- Brother of the respondent No.5 also served the nation and retired as a Captain from the Indian Army -- Paternal uncle of respondent No.5 also served the Indian National Army -- In view of the service rendered for the nation by the family of respondent No.5, decoration given to him, by appointing him as a Lambardar of the village, is perfectly justified.**

**(Para 9)**

**JUDGMENT****JASBIR SINGH, J. (ORAL) –**C.M.No.2602 of 2011

1. In view of reasons mentioned in this application, which is accompanied by an affidavit, it is allowed and 3 days delay in filing the appeal stands condoned.

LPA No.927 of 2011

2. This appeal has been filed against an order dated 8.3.2011, vide which, CWP No.7370 of 2009, filed by the appellant, was dismissed by the learned Single Judge.

3. As per facts on record, in the above writ petition, the appellant had laid challenge to an order passed by the Collector on 7.1.2008 and also by the Financial Commissioner on 20.1.2009, appointing the respondent No.5 as a Lambardar of village Baghwali.

4. It is apparent from the record that father of the respondent No.5 was a Lambardar of village Baghwali and on his death, vacancy was advertised. Appellant, respondent No.5 and one Harmel Singh were the contesting candidates. Report was called from the lower revenue staff, which came in favour of the respondent No.5. The Collector then appointed respondent No.5 as a Lambardar of the village on 7.1.2008, by observing as under:-

*“After hearing the counsel for all the three candidates and carefully perusing the record, it was found that Sh.Gurbax Singh, deceased Lambardar of village Baghwali was resident of village Magrorh. Sh.Gurdev Singh candidate is his son and he is also living in village Magrorh and he has land in village Baghwali also and boundary of village Baghwali and village Magrorh are adjoining with each other. He has retired from Military. He has served Army very well. Sh.Gurdev Singh candidate has a hereditary claim as per rule 15(a) of the Punjab Land Revenue Rules. Although Sh.Tarsem Singh and Sh.Harmel Singh are younger in age, but they are lesser in merit than Sh.Gurdev Singh. Sh.Tarsem Singh has collected chowkidara tax/ revenue of tubewell corporation by showing himself to be Lambardar which is wrong. Sub Divisional Magistrate Rupnagar has recommended the name of Gurdev Singh. Taking into consideration the above facts have agreeing with the report/ recommendation of the Sub Divisional Magistrate, Sh.Gurdev Singh s/o Sh.Gurbaksh Singh is appointed as the new Lambardar of village Baghwali Hadbast No.358 Tehsil and Distt. Rupnagar in place of his father deceased Lambardar Sh.Gurbax Singh. The file after compliance may be consigned as per procedure in the record room. Order is pronounced.”*

5. The matter went to the Commissioner, who, vide order dated 13.3.2008, reversed the order passed by the Collector and in place of the respondent No.5, appointed the appellant as Lambardar of the village.

6. Perusal of the order passed on 13.3.2008 indicates that only a fact, that the respondent No.5 is residing in the adjoining village, was noticed against him, his other merits were ignored altogether. It was not appreciated that father of the respondent No.5 remained Lambardar of this village, if he could perform

the duties of Lambardar when residing in village Maghrorh, how that fact can be taken as a disqualification against respondent No.5. As per order passed by the Collector, boundary of both the village adjoins each other.

7. Respondent No.5 went to respondent No.1, who vide order dated 20.1.2009, set aside an order passed by the Commissioner and restored the order passed by the Collector, appointing respondent No.5 against the post of Lambardar. In that order, it was stated as under:-

*“I have carefully gone through the appeal, orders and record of lower courts as well as grounds taken before the Commissioner and written arguments filed by counsel for respondent. This fact is not denied by the counsel for the respondent that the grand father and father of the respondent also remained Lambardar of the Baghwali and vacancy of Lambardar of village Baghwali arose only because of death of Gurbax Singh Lambardar who was father of the present appellant. Hence the contention of the counsel for the respondent that the appellant is residing in different village and cannot be appointed as Lambardar is not tenable. If his father and grand father can work as Lambardar for such a long period without any complaint from the residents of villages, this should not be valid reason to ignore the appellant from the Lambardari who is otherwise having edge over the respondent being the son of deceased Lambardar, and thus having hereditary claim, and also being a ex-serviceman rendering service to the nation. It is well settled law that the choice of the Collector to be honoured. The name of the appellant was recommended by the S.D.M. also. I do not find any infirmity or illegality in the orders of the Collector. I am of the considered view that the Commissioner has erred in his judgment reversing the well reasoned and justified orders of the Collector. I therefore accept the present appeal and set aside the impugned order dated 13.3.2008 of Commissioner (Appeals), Patiala Division, Patiala. The orders dated 7.1.2008 of Collector are uphold.”*

8. The appellant came to this Court by filing CWP No.7370 of 2009, which was dismissed by the learned Single Judge, vide the impugned order.

9. We feel that the order passed by the learned Single Judge is perfectly justified. It has come on record that respondent No.5 had served in the Indian Army for the period of more than 15 years, he had participated in three wars in the years 1961, 1965 and 1971. He was awarded *Shauraya Chakara* for his bravery shown at the time of those wars. Father of the respondent No.5, who was working as a Lambardar and at whose death vacancy had occurred, also served the nation by participating in the war of independence and the second world war. Brother of the respondent No.5 also served the nation and retired as a Captain from the Indian Army. Paternal uncle of respondent No.5 also served the Indian National Army. In view of the service rendered for the nation by the family of respondent No.5, we feel that, decoration given to him, by appointing him as a Lambardar of the village, is perfectly justified.

10. No case is made out for interference.

11. Dismissed.

**Appeal dismissed.**

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