

PETITIONER:  
GRAM PANCHAYAT VILLAGE SUFIPIND

Vs.

RESPONDENT:  
STATE OF PUNJAB THROUGH SECRETARY& ORS.

DATE OF JUDGMENT: 01/02/1996

BENCH:  
RAMASWAMY, K.  
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RAMASWAMY, K.  
G.B. PATTANAIK (J)

CITATION:  
1996 SCC (7) 449 JT 1996 (2) 139  
1996 SCALE (2)SP45

ACT:

HEADNOTE:

JUDGMENT:

#### O R D E R

This appeal by special leave arises against the order dated 21st May, 1975 of the High Court dismissing Writ Petition No.1887/75 as usual in limine. The controversy is whether abadi plot No.71 is a pathway which stands vested in the Gram Panchayat, Sufipind or whether it passes through the passage to the respondent. Admittedly, the consolidation proceedings were completed in 1959. An application came to be made in 1974 after long lapse of time for realignment of the plot so as not to cause disturbance of his enjoyment of Plot No.71. The Gram Panchayat claimed that it is a pathway and under the Punjab Village Common Land [Regulation] Act, 1961 and later it stands vested in the Gram Panchayat by operation of Section 4 [2] of that Act. Admittedly, notice was not issued to the Gram Panchayat. The authority had exercised the revisional jurisdiction under Section 42 of the Consolidation Act and condoned the delay and passed the order for realignment. In view of the fact that the respondent is claiming access to his property and realignment thereof, the appropriate course would be to set aside the order and to remand the matter to the consolidation Officer. The Consolidation Officer is directed to issue prior notice to the appellant as well as to the respondent. He should make a personal inspection to the place and then determine the alignment in their presence according to law. That would not only avoid needless wastage of time but the rights of the parties would also be settled in the presence of the parties by looking into the factual position as well as actual need in that behalf.

Under these circumstances, the appeal is allowed. The Consolidation Officer is directed to do the exercise within a period of two months from the date of the receipt of this order. No costs.

JUDIS