

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

**CM-12340-2005 in/and
CWP-3485-1985 (O&M)
Decided on : 07.04.2015**

Gram Panchayat Village Kakar

..... Petitioner

VERSUS

**Additional Director Consolidation
of Holdings, Punjab, Chandigarh
and others**

..... Respondents

CORAM: **HON'BLE MR. JUSTICE RAJIVE BHALLA**
HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: **Mr.Girish Agnihotri, Senior Advocate, with
Mr.Arvind Seth, Advocate, for the petitioner.**

**Mr.J.S.Puri, Addl.A.G., Punjab,
for respondents No.1 and 2.**

**Mr.Anand Chhibbar, Senior Advocate, with
Mr.Vaibhav Sahni, Advocate,
for respondents No.14 and 28.**

None for remaining respondents.

RAJIVE BHALLA, J. (ORAL)

By way of this order, we shall dispose of an unnumbered application, dated 13.07.2009, praying for condonation of delay of 16 years and 151 days in filing CM-12340-2005, application for recalling order dated 29.11.1988, passed in CWP-3485-1985, and for deciding CWP-3485-1985 on merits.

Counsel for the parties agree that the aforesaid applications and the writ petition may be decided together and a common order may be passed.

Mr.Girish Agnihotri, Senior Advocate, with Mr.Arvind Seth, Advocate, for the applicant/petitioner-Gram Panchayat, Mr. J.S.Puri, Addl.A.G., Punjab, and Mr.Anand Chhibbar, Senior Advocate, with Mr.Vaibhav Sahni, Advocate (representing respondents No.14 and 28) whose interests are in common with other private respondents, agree that the application for condonation of delay and the application for recalling of order dated 29.11.1988, may be allowed.

In view of consensus between counsel for the parties, the applications are allowed, delay of 16 years and 151 days in filing CM-12340-2005 is condoned and order dated 29.11.1988, passed in CWP-3485-1985 is recalled and the writ petition is restored to its original number and stage.

CWP-3485-1985

Prayer in this petition is for issuance of a writ of certiorari, quashing order dated 31.10.1984, passed by the Additional Director, Consolidation of Holdings, Punjab, Chandigarh, exercising power under Section 42 of the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948 (hereinafter referred to as the “1948 Act”).

Counsel for the parties are ad idem that as the Additional Director, Consolidation had no jurisdiction to decide whether the land is or is not *Shamilat Deh*, the writ petition may be allowed and the impugned order may be set aside. Counsel for the parties also

agree that as the Gram Panchayat and the State of Punjab have already filed petitions under Section 11 of the Punjab Village Common Lands (Regulation) Act, 1961, for declaration of title, the District Development and Panchayat Officer-cum-Collector, Jagraon, may be directed to decide the matter in a time-bound manner after permitting parties to raise all and any such pleas as may be available to them in accordance with law.

In view of consensus between counsel for the parties, the writ petition is allowed, order dated 31.10.1984, is set aside, leaving it to the parties to seek adjudication of their rights before the District Development and Panchayat Officer-cum-Collector, Jagraon, who shall decide the matter within four months of receipt of a certified copy of this order.

Parties are directed to appear before the District Development and Panchayat Officer-cum-Collector, Jagraon, on 04.05.2015.

[RAJIVE BHALLA]
JUDGE

07.04.2015
Shamsher S.Sabharwal

[AMOL RATTAN SINGH]
JUDGE