

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

CWP No.6263 of 1992 (O&M)

Date of Decision: 10.02.2015

Man Singh & Ors.

... Petitioners

VS.

Director of Consolidation of Holdings,
Haryana & Ors.

... Respondents

**CORAM: HON'BLE MR.JUSTICE SURYA KANT
HON'BLE MR.JUSTICE RAJ MOHAN SINGH**

1. Whether Reporters of local papers may be allowed to see the judgment?

2. To be referred to the Reporters or not?

3. Whether the judgment should be reported in the Digest?

Present: None for the petitioners

Mr. RKS Brar, Addl. AG Haryana

Mr. Maninder Arora, Advocate
for respondents No.6 to 19

SURYA KANT, J. (Oral)

(1) The challenge laid herein is to the order dated 23.05.1984 (Annexure P1) passed by the Director, Consolidation of Holdings, Haryana in purported exercise of his powers under Section 42 of East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948. The consequential orders passed by the Consolidation Officer, Rohtak (Annexure P2 & P3 to P8) are also assailed.

(2) The facts as broadly admitted by the parties are that the re-partition proceedings under Section 21(1) of the Act were held and concluded on 29.08.1954. The contesting respondents moved an application on 19.10.1982 alleging that they had been allotted

area less than what was due to them and consequently a prayer was made to make good the deficiency. The Director Consolidation while deciding the aforesaid petition under Section 42 of the Act though took notice of the inordinate delay in moving the application but having regard to the fact that the Consolidation Department had wrongly entered land measuring 16 bigha 19 biswa instead of 42 bigha 8 biswa while preparing the *naksha haqdarwar* that the delay was condoned vide impugned order dated 23.05.1984 and the case was remanded to the Consolidation Officer for suitable adjustment of the above-mentioned land amongst the right-holders under Section 21(2) of the Act after giving an opportunity of hearing to all the concerned. Thereafter, the consequential orders (Annexure P3 to P8) were passed.

(3) The primary grievance of the petitioners against the principal order dated 23.05.1984 is that the petition under Section 42 of the Act was entertained after more than 28 years though there was no satisfactory explanation for the inordinate delay. The decision of the Hon'ble Supreme Court in **Gram Panchayat, Kakran vs. Addl. Director of Consolidation and Another, (1997) 8 SCC 484** is relied upon in this regard.

(4) We have heard learned counsel for the parties and gone through the record.

(5) It is true that limitation period for entertainment of petition under Section 42 of the Act is not prescribed. The law

settled in the cited decision is that such a petition must be entertained within a reasonable period. Determination of “reasonable period” being essentially a question of fact would depend upon case to case basis. There may be instances where parties are able to explain the delay and satisfy the authority that they did not willingly allow the grass to grow under their feet. The Director/Additional Director would be well within his right to condone the delay only after recording such reasons in writing and decide the petition on merits. There may, however, be cases where parties slept over the matter; did not raise the dispute even within the ‘reasonable period’ and thus foreclosed their right.

(6) In the instant case, the Director Consolidation has condoned the delay with a single remark that since there was a wrong entry in the *Naksha Haqdarwar* that the delay deserves to be condoned. When was such entry made? When the respondent came to know about such entry? What was its effect? How and in what circumstances they came to know about that entry soon before the filing of the petition? – are serious question of facts which need to be answered before condoning the delay. Since such an exercise has not been undertaken, we are of the considered view that the matter requires re-determination at the hands of Director, Consolidation. Needless to say, we do not want to express any view on the existence of sufficient grounds for the private respondents to seek condonation of delay.

(7) Resultantly, the writ petition is allowed; the impugned order dated 23.05.1984 (Annexure P1) passed by the Director Consolidation is set aside and as a sequel thereto, the orders (Annexure P3 to P8) passed by the subordinate authority on remand also stands annulled. The Director, Consolidation shall decide afresh the petition filed by the private respondents in the light of the observations made hereinabove. Suffice it to observe that in case the authority is satisfied that the private respondents were justified in approaching it in the year 1982 and consequently if the delay is condoned, their petition shall be decided on merits as well.

(8) The needful shall be done within a period of four months from the date of receipt of a certified copy of this order.

(9) Parties to appear before the Director Consolidation on 16.03.2015.

(Surya Kant)
Judge

10.02.2015
vishal shonkar

(Raj Mohan Singh)
Judge