

**IN THE HIGH COURT OF PUNJAB & HARYANA AT  
CHANDIGARH.**

**CWP No.8202 of 2015**

**Date of Decision:-30.04.2015**

**Hussain Ali & Anr.**

.....Petitioners.

Versus

**State of Haryana & Ors.**

.....Respondents.

**CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH**

Present:- Mr. Mohd. Arshad, Advocate for the Petitioners.

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**JASWANT SINGH, J.(ORAL)**

Prayer in the present petition is to direct respondent no. 4 to decide the claim of the petitioners and pass a speaking order on application filed by predecessor in interest of the petitioners dated 28.6.1956 under Section 16 of the Administration of Evacuee Property Act, 1950.

Learned Counsel for the petitioners has argued that the ancestors of the petitioners namely Subhan Khan son of Zora Khan was murdered by a mob and share of his property was mutated in favour of his wife namely Smt. Chandari as per revenue record. However, in the jamabandi for the year 1954-55, the land of Smt. Chandari wife of Subhan Khan was wrongly mentioned as migrated to Pakistan. Immediately Smt. Chandari filed an application before respondent no.4 Assistant Custodian, Gurgaon for discharging the land measuring 6 K 14 Marlas to the extent of 1/8<sup>th</sup> share situated at Siwan, village Agon, Tehsil Ferozepur Jhirka, District

Gurgaon (now Mewat) in her favor. However, the said application is still pending and no speaking order has been passed till date. Ultimately, the Lrs of Smt. Chandari i.e. the petitioners herein were constrained to give a legal notice dated 13.09.2014 (P-4) to respondent no.4 for deciding the application, however the said legal notice cum-representation has not been decided till date and, therefore, the prayer has been made for deciding the said legal notice and in the alternative for directing the respondent no.4 to decide the claim of Chandari raised on 28.06.1956.

After hearing learned Counsel for the petitioners and perusing the paper book, this Court is of the considered view that the present petition is devoid of any merit and the same deserves to be dismissed.

It is evident from the record that the petitioners are making bald allegations that their predecessor in interest, namely Smt. Chandari had moved an application on 28.6.1956 which has not been decided till date and in order to make out a fresh cause of action, had given a legal notice dated 13.09.2014, which according to them has not been decided till date. This alleged legal notice has been given by the Petitioners after a considerable delay of 58 years. No person can be permitted to sit over a matter for considerable number of years and then come up for a claim. In the present case, the petitioners or their predecessor in interest have been grossly negligent in staking their claim over the property, which they alleged that it belongs to them. Admittedly, the predecessor in interest of the petitioners knew about the land being given to the other persons and still, she sat over the matter and allowed her alleged land to be allotted to some other persons. Therefore, the present petition is hit by delay and laches and by merely giving of legal notice-cum-representation in the year 2014, enormous delay

of 59 years in approaching this Court cannot be condoned.

In view of the above, this Court finds that present petition is frivolous and the petitioners have wasted the Court time and, therefore, the same is hereby dismissed with costs of Rs.20,000/- (Rs. 10,000/- each to both the petitioners), to be deposited by them with State Legal Services Authority, Gurgaon. In case same is not deposited, the Member Secretary, Legal Services Authority, Gurgaon shall recover the same as arrears of land Revenue.

**( JASWANT SINGH )  
JUDGE**

**April 30, 2015**  
Vinay