

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.10071 of 1993

Date of Decision:-06.01.2016.

Gurjinder Singh and another

.....Petitioners

Versus

The State of Punjab and another

.....Respondents

**CORAM: HON'BLE MR. JUSTICE SURYA KANT
HON'BLE MR. JUSTICE P.B. BAJANTHRI**

- 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: Mr. S.C. Arora, Advocate for the petitioners.

Mr. K.K. Gupta, Additional A.G. Punjab.

Mr. M.S. Rana, Advocate for
Mr. R.S. Pandhar, Advocate for respondent No.2.

SURYA KANT, J. (ORAL)

1.) The short question that arises for consideration is whether the Assistant Director, Consolidation and/or any other Authority under the East Punjab Land Holdings (Consolidation and Prevention of Fragmentation) Act, 1948 (for short 'the 1948 Act') is competent to review its own order? If the first question is answered in affirmative, the ancillary question for determination would be whether such a power is exercisable after 27 years?

2.) The facts are not in dispute. The consolidation in the village of petitioner and respondent No.2 took place in the year 1965-66. At the time of consolidation, a part of the petitioner's land was included in the *jumla mustarkan malkaan* and in lieu thereof *jumla mustarkan malkaan* land was included in the petitioner's holding. The said exchange or transfer of lands got the seal of approval vide order dated 21.10.1966 passed by the Assistant Director Consolidation.

3.) The parties were put into possession and continued to cultivate their respective land holdings accordingly.

4.) It was after 27 years or so that the second respondent filed application No.43-A1/92 purportedly under Section 43-A of the 1948 Act "for correction of the order dated 21.10.1966 --- xxx---xxx", as according to him, the petitioner was erroneously given 18 *marla* excessive land out of *jumla mustarkan malkaan* land by the Assistant Director vide order dated 21.10.1966.

5.) The aforementioned application came to be allowed by the Assistant Director, Consolidation vide the impugned order dated 17.2.1993 whereby the exclusion and inclusion of the land-holdings of petitioner as well as of *jumla mustarkan malkaan* was redetermined.

6.) The aggrieved petitioner approached this Court; operation of the impugned order was stayed and the interim stay was later on made absolute.

7.) We have heard learned counsel for the parties with reference to the questions formulated at the outset.

8.) There is no gain-saying that a judicial or quasi-judicial authority cannot review its own order unless the power of review is vested in it. There is no inherent power of review exercisable by a judicial or quasi-judicial Forum. This is a conceded fact in the case in hand that there is no provision in the 1948 Act enabling the Authorities to review their own orders. In the absence of such a provision, we fail to understand as to how the application moved by respondent No.2 could be entertained or allowed by the first respondent.

9.) True it is that a typographical or factual mistake can be corrected for which every decision making authority possesses inherent powers. The second respondent though nomenclatured the application as if it was for correction of a mistake but in true sense it was a review application as the Assistant Director Consolidation was called upon to re-determine the land-holdings of the petitioner and *jumla mustarkan malkaan*, after making additions or deletions from their respective shares. This is the only quasi-judicial function otherwise vested in the Authorities under the 1948 Act. It was not a case of correction of a mistake, rather the Authority was called upon to form a second view point on the issue already decided by it. It was surely beyond the scope of the bare correction of a mistake.

10.) Having held that, it is not necessary to delve upon

question No.2. Nevertheless, we cannot restrain ourselves from observing that even a review application, wherever maintainable, has to be filed within the prescribed period of limitation. Where the Statute does not prescribe such period, the application has to be moved within a reasonable period. In the instant case, delay of 27 years does not satisfy either of the tests. The second respondent is resident of the same village. He had the knowledge of the proceedings which took place in 1965-66. He ought to have challenged the order dated 21.10.1966 before an appropriate Forum and if at all there was a mistake, the correction ought to have been sought within some reasonable period. He did not do so.

11.) For the reasons aforestated, the writ petition is allowed; impugned order dated 17.2.1993 is set aside and the application moved by respondent No.2 is dismissed.

(SURYA KANT)
JUDGE

(P.B. BAJANTHRI)
JUDGE

January 6, 2016.

sandeep sethi