

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

CWP No.15195 of 2016

Date of Decision : 01.08.2016

Naresh Kumar and others

....Petitioners

Versus

Commissioner and another

....Respondents

CORAM : HON'BLE MR.JUSTICE MAHESH GROVER
HON'BLE MR.JUSTICE DR.SHEKHER DHAWAN

....

Present: Mr. Sandeep Parkash Chahar, Advocate
for the petitioners.

.....

MAHESH GROVER, J.

The petitioners impugn the order Annexure P-2 by which an application preferred under Section 42 of the Consolidation Act, 1948 was dismissed.

The father of the petitioners who had moved the application, had claimed an exchange of land measuring 0-9 Biswas with Kedara and Birkha in exchange of 0-16 biswas pukhta. He pleaded that at the time of consolidation its value was assessed as 6 annas and in Naksha Haqdarwar at Sr.No.31 this area was converted to 1 kanal 10 marla standard area out of which 0-13 standard marla were deducted for abadi and 0-1 marla was deducted as rent. Accordingly, 16 standard marlas were to be given to the grandfather of the petitioners and instead only 1

kanal 19 marlas simple and 15 marlas standard were given with deficiency of about 0-1 standard marla.

We notice from the material on record that respondent No.2 had filed a suit for possession by way of partition in which the father of the present petitioners was a party and similar plea of exchange of land was taken. Pursuant to the suit a preliminary decree for partition and possession was passed. The appeal against which was also dismissed. If that is so, then we are of the opinion that these issues would have largely been addressed in the partition proceedings and once having effected the partition acceptance of the application under Section 42 of the Act at this belated stage, as noticed above, would simply result in undoing the partition which in any case is impermissible.

Therefore, we do not find any reason to interfere.

Dismissed.

(MAHESH GROVER)
JUDGE

01.08.2016
dss

(SHEKHER DHAWAN)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No