

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.25701 of 2014
Date of Decision:-1.3.2016.

Harvinder Singh and another

.....Petitioners

Versus

Director, Land Records, Punjab, Jalandhar 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. G.S. Nagra, Advocate for the petitioners.

Mr. Rajesh Bhardwaj, Additional A.G. Punjab.

Mr. Dinesh Kumar, Advocate for respondent No.2.

SURYA KANT, J. (ORAL)

1.) The second respondent filed a petition under Section 42 of the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948 (for short 'the 1948 Act') claiming *inter alia* that at the time of consolidation of land holdings held in his village in the year 1952-53 new khasra No.295 (old No.539) was allotted to his predecessors-in-interest but instead new khasra No.297 has been wrongly given to him.

2.) The petitioners contested the above stated claim of the second respondent but vide impugned order, their objection has been turned down and the claim of respondent No.2 stands accepted.

3.) One of the contention raised before us is that no petition under

Section 42 of the 1948 Act could be entertained after an inordinate and unexplained delay of more than 57 years. It is also urged that plea of limitation/inordinate delay was specifically raised but the same has not been dealt with by the Director, Land Records while passing the impugned order.

4.) Though learned counsel for respondent No.2 has made an effort to explain the delay but in our considered view, such explanation firstly has to be considered by the prescribed authority before invoking its powers under Section 42 of the 1948 Act. As the impugned order is totally silent and does not deal with the delay aspect, we allow this writ petition in part; set aside the impugned order dated 15.10.2014 and remit the case to the Director, Land Records for a fresh decision including on the question of delay and laches. The second respondent shall be at liberty to place on record the material/proof to support his plea that the delay in the instant case cannot be fatal to his claim.

5.) The parties are directed to appear before the Director, Land Records on 23.3.2016 who shall make an endeavour to decide the matter afresh within a period of six months.

(SURYA KANT)
JUDGE

(P.B. BAJANTHRI)
JUDGE

March 1, 2016.

sandeep sethi