

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.5679 of 2016 (O&M)

Date of Decision: 28.03.2016

Sukhdev Singh & Anr.

... Petitioners

VS.

Director, Land Records-cum-
Director Consolidation, Punjab & Ors.

... Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT

HON'BLE MR.JUSTICE P.B. BAJANTHRI

Present: Mr. Vivek Salathia Advocate for the petitioners

SURYA KANT, J. (Oral)

(1) The petitioners seek quashing of the order dated 30.09.2015 (P1) passed by the Director Land Records, Punjab whereby their petition filed under Section 42 of the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948 seeking allotment of land measuring 5 kanal 11 marla has been rejected on the ground they failed to get the mutation entered nor they got confirmed the allotment of land from the Department of Rehabilitation and that Khasra no.1363, 1366 which are claimed to have been allotted by Rehabilitation Department in the year 1973 were not in existence at the spot as new khasra Nos. had been assigned after the completion of consolidation proceedings well before 1973.

(2) The petitioners are stated to be the grand-children of Fauza Singh s/o Narain Singh in whose favour a certificate of sale dated 19.05.1973 (P2) was issued by the Competent Officer, Punjab, Jullundur under the Evacuee Interest (Separation) Act, 1951, declaring the said Fauza Singh as purchaser of the land measuring 5

kanal 11 marla situated in village Gehri, Tehsil and District Amritsar comprising khasra No(s).1363 (2-16) and 1366 (2-15). The certification was based upon a public auction held on 04.02.1955. It appears that no Conveyance Deed was executed nor any formal allotment letter pursuant to the above-stated declaration was made. There is some correspondence of years 1972-74 indicating that actual allotment was sought but the claim remained pending here and there.

(3) It has also come on record that Consolidation in the village had taken place much before 1973 and Khasra Nos.1363 or 1366 were not found in existence hence neither these Khasra nos. were allotted nor physical possession was delivered.

(4) The petitioners appear to have raked up the matter somewhere in 2010-2011 when they represented the Consolidation Authorities and vide communications dated 10.12.2010 and 20.01.2011 (P9 & P10) they were informed that no action was possible on administrative side and if any error had taken place in the record while carrying out the consolidation proceedings, they could raise such claim by filing a petition under Section 42 of the 1948 Act. Armoured with communication, the petitioners filed petition under Section 42 which, as observed at the outset, has been dismissed.

(5) We have heard learned counsel for the petitioners at a considerable length and are of the view that no case to interfere with the impugned order is made out.

(6) In the absence of any Conveyance Deed or actual allotment, the declaratory certificate (P2) at best is an acknowledgement of acceptance of highest bid given by late Fauza Singh. It does not amount to allotment. Further, at the time when the declaratory letter was issued, no khasra no.1363 or 1366 were in existence. The so-called title passed on to Fauza Singh was defective. That apart, the Consolidation Authorities have no power to decide the title dispute between petitioners or the Department of Rehabilitation. Furthermore, the petition filed by the petitioners was liable to be dismissed outrightly on the ground of delay and laches. It may be true that no limitation is prescribed for initiation of proceedings under Section 42, but it is well-settled that the aggrieved person ought to invoke such jurisdiction within a reasonable time. The petitioners or their predecessor-in-interest took no action after 1974-75 till they again woke up in 2010.

(7) The writ petition is devoid of any merit and is accordingly dismissed.

(Surya Kant)
Judge

28.03.2016
vishal shonkar

(P.B. Bajanthri)
Judge