

HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-1331-2016

Date of Decision: July 05, 2017

Amar Singh

.....Petitioner

Versus

Commissioner, Gurgaon and others

.....Respondents

**CORAM: HON'BLE MR.JUSTICE SURYA KANT
HON'BLE MR. JUSTICE SUDIP AHLUWALIA**

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|----|---|---------|
| 1. | To be referred to the Reporters or not? | Yes/No |
| 2. | Whether the judgment should be reported in the Digest? | Yes/No. |
| 3. | Whether Reporters of local papers may be allowed to see the judgment? | Yes/No |

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Present: Mr.Rajesh Lamba, Advocate for
Mr.P.R.Yadav, Advocate
for the petitioner.

Mr.Zorawar Singh, Advocate for respondent Nos.2 and 3.
Mr.P.S.Guliani, Advocate for respondent Nos.6 and 7.

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SURYA KANT, J.

The petitioner has laid challenge to the order dated 28.07.2015 passed by the Commissioner, Gurgaon Division, Gurgaon (Annexure P-3) in exercise of the powers of Director Consolidation under Section 42 of the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948 (for brevity, the 1948 Act). The petitioner has multiple grievances against the impugned order including that (i) neither respondent No.2 impleaded the petitioner or other affected residents of the village as party-respondents nor they were heard by respondent No.1 before passing the impugned order; (ii) the petition under Section 42 of the 1948 Act was not

maintainable at a highly belated stage after 53 years in view of the settled law; and (iii) the nature of the street could not be changed as it is a public passage which provides access to the residential houses of the petitioner and other affected persons.

[2] Since the impugned order admittedly affects the rights of the petitioner and other residents of the village, there can be no other escape but to set aside the same and remit the case to respondent No.1-Commissioner, Gurgaon Division, Gurgaon, for afresh decision after hearing the petitioner and other affected persons. Respondent No.1 is directed to formulate specific issue on the point of limitation/delay and laches and determine as to how a petition under Section 42 of the 1948 Act could be entertained after 53 years.

[3] The writ petition is accordingly allowed in the above terms. The impugned order dated 28.07.2015 is set aside and the parties are directed to appear before the Commissioner, Gurgaon Division, Gurgaon on 08.08.2017.

(SURYA KANT)
JUDGE

July 05, 2017
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(SUDIP AHLUWALIA)
JUDGE

1. Whether speaking/reasoned ?	Yes/No
2. Whether reportable ?	Yes/No