

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Writ Petition No.25616 of 2016.

Date of Decision: July 11, 2017

Naib Singh and another

.....Petitioners

versus

Director Land Record-cum-Director Consolidation, Jalandhar and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT.

HON'BLE MR.JUSTICE SUDHIR MITTAL.

Present: Mr.G.S.Punia, Senior Advocate with
Ms.Harveen Kaur, Advocate, for the petitioners.

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Surya Kant, J. (Oral)

The petitioners are aggrieved by the order dated 31.08.2016 (P-1) passed by the Director, Consolidation, Punjab, whereby their petition under Section 42 of the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1958 (for short, 'the Act'), has been dismissed on the ground of inordinate delay and having regard to such a view taken by this Court in CWP No.12446 of 1991 decided on 28.10.2013.

[2] The petitioners moved the above-stated petition alleging that at the time when consolidation proceedings were held in their village (in the year 1958), the first petitioner was not allotted the land as per his entitlement. It was claimed that while preparing *khatauni pamaish* on the basis of entry in *misal haqiat*, the petitioners' share was reduced as khewat was divided into 7 shares instead of 6 shares. The petitioners claimed that it was an inadvertent mistake which could be rectified any time.

[3] It is not out of context to mention here that the private-respondents had also earlier applied for correction of their share under Section 42 of the Act and their application was allowed by the Director, Consolidation vide order dated 21.12.1990. The said order dated 21.12.1990 was challenged by the petitioners before this Court in CWP No.12446 of 1991 which was allowed by a Coordinate Bench on 28.10.2013 primarily on the ground that there was inordinate delay on the part of the respondents in approaching the Consolidation Authorities under Section 42 of the Act. This Court relied upon the decision of the Hon'ble Supreme Court in (i) Gram Panchayat Kakran versus Additional Director of Consolidation and another, 1998 (9) SCC-269, and (ii) a Single Bench judgment of this Court in Dalbara Singh and others versus The Additional Director, Consolidation of Holdings, Punjab, Jullunder and another, 2004(2) RCR (Civil) 597, to hold that though there is no limitation prescribed for moving application under Section 42 of the Act but the Competent Authority cannot entertain such application after long lapse of time. This Court thus held that the shares were allocated at the time of consolidation in the year 1958, hence petition under Section 42 of the Act filed by the respondents in the year 1990 was hopelessly delayed.

[4] The case of the petitioners is worse than the private-respondents. They have filed their petition under Section 42 of the Act as late as in the year 2014 seeking correction of alleged mistake which admittedly occurred in the year 1958. We are of the view that in the light of the above-cited decisions, the petition filed by the petitioners was liable to meet with the same fate. In this view of the matter, no case to interfere with the order passed by the Director, Consolidation is made out.

Dismissed.

[SURYA KANT]
JUDGE

July 11, 2017
mohinder

[SUDHIR MITTAL]
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No

104 CM No.9046 of 2017 in
CWP No.25616 of 2016

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Naib Singh and another vs. Director, Land Records-cum-Director
Consolidation, Jalandhar and others

Present : Mr.G.S.Punia, Senior Advocate with
Ms.Harveen Kaur, Advocate,
for the applicant-petitioners.

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For the reasons mentioned in the application, the same is
allowed subject to all just exceptions and the documents (P-10 to P-12) are
taken on record.

CM stands disposed of.

(SURYA KANT)
JUDGE

July 11, 2017
mohinder

(SUDHIR MITTAL)
JUDGE