

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

**C.W.P. No.3929 of 2015(O&M)
Date of Decision:-20.07.2017**

Harjinder Singh and others

....Petitioners

vs.

Director Land Records and others

....Respondents

**CORAM:- HON'BLE MR. JUSTICE SURYA KANT
HON'BLE MR. JUSTICE SUDHIR MITTAL**

Present:- Mr. Jatinder Singla, Advocate,
for the petitioners.

Mr. Rajesh Bhardwaj, Sr. DAG, Punjab.

Mr. S.S. Salar, Advocate,
for respondents No.3 to 8.

SURYA KANT, J. (Oral)

The petitioners filed a petition under Section 42 of the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948, for the correction of the record, alleging that while preparing Khatauni Pamaish No. 215/245 during the consolidation, land measuring 12 bigha was wrongly shown as sold by Lehna Singh, co-sharer, whereas, he had actually sold land measuring 16 bighas 16 biswas. The respondents contested the above-stated petition and raised a preliminary objection that the petitioners have not placed on record the Khata to support their alleged claim of mistake having been committed at the time of consolidation. The petition was, thus, summarily dismissed by Director Land Records on 25.2.2009 on the ground that the record was incomplete. The controversy

was not adjudicated on merits.

The petitioners thereafter filed second petition seeking the same relief and that petition has been dismissed vide impugned order dated 1.10.2014 (Annexure P-8) on the plea that previously their petition stands dismissed on 25.2.2009. The Director, Land Records has further observed that no review is maintainable under the Act.

The aggrieved petitioners have approached this Court.

We have heard learned counsel for the parties and gone through the records.

Since the first petition was not decided on merits, there can be no quarrel that the principle of *res judicata* is not attracted. As regard to the non-maintainability of 'review', it appears that the Director Land Records has misconceived and misconstrued the second petition. No 'review' was filed by the petitioners. They filed a second petition on the same cause of action as their earlier petition was dismissed being incomplete. The reason assigned in the impugned order dated 1.10.2014, thus, is unsustainable being neither here nor there.

The writ petition is accordingly allowed; impugned order dated 1.10.2014 is set aside and the matter is remitted to the Director Land Records to decide the same afresh and in accordance with law.

The respondents have raised a plea that the petition under Section 42 of the Act is not maintainable at such a belated stage. We direct the Director, Land Records to formulate a specific issue on the point of limitation/delay and decide the same in accordance with law.

The parties are directed to appear before the Director, Land Records, Punjab, on 8.8.2017.

(SURYA KANT)
JUDGE

July 20, 2017
poonam

(SUDHIR MITTAL)
JUDGE

Whether Speaking/Reasoned

Yes

Whether Reportable

No