

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Writ Petition No.28093 of 2017.

Date of Decision: December 12, 2017

Khadak Singh and others

.....Petitioners

versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT.

HON'BLE MR.JUSTICE SUDHIR MITTAL.

Present: Mr.M.L.Sharma, Advocate, for the petitioners.

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Surya Kant, J. (Oral)

The petitioners are residents of village Manana, Tehsil Samalkha, District Panipat. They have chosen to challenge the order dated 09.12.1969 passed by the Assistant Director C/H, Haryana, Rohtak in purported exercise of his powers under Section 42 of the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948 (for short, 'the 1948 Act'), at this stage through the instant writ petition. It is averred that the above-stated order is void ab-initio as it was passed overlooking the mandate of the Civil Court in Civil Suit No.178/63 decreed in favour of the petitioners and against the Gram Panchayat vide judgment and decree dated 08.11.1963. The said decree was upheld by this Court in RSA No.1213 of 1970 decided on 07.04.1983.

We have heard learned counsel for the petitioners. It cannot be disputed that an order passed by Assistant Director under the provisions of the 1948 Act is appealable/revisable by various superior authorities prescribed under the statute.

Without going into the question of delay, we are of the view

that even if the petitioners have any cause of action to challenge that order

at this stage, the appropriate recourse for them would be to avail the alternative remedy under Section 42 of the 1948 Act alongwith an application for condonation of delay.

With liberty aforementioned, the writ petition stands disposed of.

[SURYA KANT]
JUDGE

December 12, 2017
mohinder

[SUDHIR MITTAL]
JUDGE

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