

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.25776 of 2018
Date of Decision: 17.10.2018

Suraj Bhan and others

..... Petitioners

Versus

Commissioner, Hisar Division, Hisar and others

..... Respondents

**CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL
HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU**

Present: Mr. Tanuj Kumar, Advocate for
Mr. Dinesh Arora, Advocate
for the petitioners.

MAHABIR SINGH SINDHU J.

Present writ petition has been filed for issuance of a writ in the nature of certiorari for quashing of impugned order dated 19.01.2017 (P-3), passed by respondent No.1-Commissioner, Hisar Division, Hisar, whereby their petition under Section 42 of the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948, as applicable to State of Haryana (for short 'the Act') was rejected.

It is contended by learned counsel for the petitioners that the predecessor-in-interest of the parties i.e. Sheo Dutt had three sons, namely, Bal Mukand, Raje Ram and Hari Singh. Petitioners as well as proforma respondents No.15 to 17 are the successors-in-interest of Raje Ram, whereas private respondents No.2 to 14 are of Hari Singh and Bal

Mukund died issueless in the year 1962.

It is further argued that Hari Singh was managing the affairs of the family and during consolidation in the year 1955-56, he succeeded in getting more fertile land and excess area in his khewat whereas inferior quality of land with lessor area was given to Raje Ram i.e predecessor-in-interest of the petitioner. Further argued that even the share of Bal Mukund has not been equally distributed between the parties.

Heard learned counsel for the parties and perused the paper book.

There is no dispute that consolidation proceedings had taken place way back in the year 1955-56 and as per provisions of Section 19 of the Act, a draft scheme is to be published by the Consolidation Officer for inviting objections from the affected person (s) and if any objection(s) is/are received, then Consolidation Officer along with his remarks will send the same to the Settlement Officer for further necessary action. Thereafter, in terms of Section 20 of the Act, the Settlement Officer after considering the objections along with the remark(s) of the Consolidation Officer, if any, will confirm the scheme and the same shall be published in the prescribed manner in the Estate. Thereafter, in terms of Section 21, Consolidation Officer shall after obtaining the advice of landowners of the estate, carry out repartition in accordance with the scheme referred above and boundaries of holdings shall be shown on the *Shajra* (map) which shall be published in the

estate. If any one feels aggrieved against the repartition, he may file the objection(s) within a period of 15 days and after considering the same, the Consolidation Officer shall pass an order as he thinks proper i.e. may confirm or modify the repartition. If any person is still aggrieved against the order of the Consolidation Officer, he may prefer an appeal before the Settlement Officer within a period of 30 days and the same shall be decided after hearing the appellant. Still further, if any person is aggrieved against the order of the Settlement Officer referred above, he may, within next 60 days prefer an appeal to Assistant Director of Consolidation while exercising the powers of the Government under the Act. Section 22 of the Act envisages for preparation of new record-of-rights by the Consolidation Officer in terms of Section 32 of the Punjab Land Revenue Act, 1887 (for short 1887 Act) and ultimately, in terms of Section 23 of the Act, if all the landowners agree to enter into possession of the holdings allotted to them respectively, then Consolidation Officer may allow the land owners to enter into their possession forthwith or from such date as he may specify.

Therefore, consolidation of land holding under the Act is a very lengthy and transparent process. In the present case, undisputedly, the above exercise was completed way back in the year 1955-56 and parties have been continuing in possession of their respective shares after finalization of the scheme in terms of Section 24 of the Act. Therefore, it will be too late for the petitioners to assail the consolidation proceedings at this stage while taking recourse to the

petition under Section 42 of the Act. Petitioners remained silent even after the death of Bal Mukund in the year 1962 and there is nothing on record that any proceedings were initiated at the instance of the petitioners for claiming the share of the said Bal Mukund. Even the Civil Suit filed by the petitioners on 20.04.2006 has been dismissed by learned Civil Judge (Jr. Divn.), Bhiwani vide judgment and decree dated 21.03.2012 and an appeal there against has also been dismissed by learned Addl. District Judge, Bhiwani vide judgment and decree dated 17.11.2014 (Annexure P-2) and that has attained finality.

There is no dispute that as per the provisions of Act of 1887 the revenue record (Jamabandhi) is prepared after every five years and *prima facie* that shows the status of ownership and possession of the parties but not even a single Jamabandhi has been annexed with the paper book by the petitioners for the reasons best known to them. The contention that a Panchayat was convened after the death of Bal Mukund is also without any basis as there is no material available on record to substantiate the same. Even there is no document(s) available on record to show the consolidation proceedings as well as record of rights prepared in the year 1956 regarding the land in dispute.

In view of the facts and circumstances discussed herein above, the impugned order passed by Commissioner while dismissing the petition under Section 42 of the Act thereby observing that the same is highly belated after a period of 60 years is perfectly legal and justified. As a result thereof, this Court does not find any illegality or

perversity to interfere with the impugned order by way of the present writ petition.

Consequently, there is no merit and the petition stands dismissed.

(RAJESH BINDAL)
JUDGE

(MAHABIR SINGH SINDHU)
JUDGE

17.10.2018
rittu/mamta

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No