

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CWP No.5014 of 2017(O&M)

Date of Decision:-04.12.2019

Ram Chand & Ors.

.....Petitioners.

Versus

Commissioner Gurgaon Division, Gurgaon & Ors.

.....Respondents.

**CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH
HON'BLE MR. JUSTICE SANT PARKASH**

Present:- Mr. Aditya Jain, Advocate &
Ms. Bhanvi Sood, Advocate for the Petitioner.

JASWANT SINGH, J.

Three petitioners, namely, Ram Chand, Hariya and Kishan @ Ram Kishan have filed the instant writ petition seeking writ in the nature of certiorari for quashing of order dated 26.09.2016 (P-2) passed by Director Consolidation, whereby their application filed under Section 42 of the East Punjab Consolidation of Land Holdings Act, 1948 has been dismissed on account of un-explained delay of 53 years in approaching the Court.

Ld. Counsel for petitioners has vehemently argued that on an application moved by petitioners alongwith Siri Chand and Ramji Lal during the consolidation proceedings, an order dated 28.06.1960 was passed whereby Siri Chand and Ramji Lal were allotted a plot measuring 2 Kanals in Khasra No 81 and similarly, petitioners were allotted a plot measuring 2

Kanals 2 Marla in Khasra No 78. However, this fact was not recorded in the

Khatoni Paimaish and instead, both the plots were reflected in the revenue record to have been allotted to Siri Chand and Ramji Lal. It is argued that on the spot it is the petitioners who are in possession after constructing their house in the year 1960 itself, and therefore the hyper-technical approach of the Director Consolidation to dismiss their application under section 42 of the Act, 1948 on the ground of delay, is unjustified and hence liable to be set aside.

We have learned counsel for the petitioners at length and have also scrutinized the paper book at length with his assistance. However, we do not find any merit in the instant writ petition and therefore same is liable to be dismissed.

Vide order dated 25.04.2017, a co-ordinate bench of this court had directed the petitioners to produce any document showing that plot bearing khasra no 78 was allotted to them at the time of consolidation. However, no such document is coming forth. The Director Consolidation has recorded a finding of fact that petitioner's name was never reflected in the revenue record at any point of time qua the property in question. Further, the order dated 28.06.1960, which could have clinched the issue in favor of petitioners has also not been brought on record despite the instant petition being pending before this Court for the past more than 2 years. It is unbelievable that any person who has been allotted a house, will not ensure recording of its ownership in the revenue record. Merely by stating that petitioners are villagers cannot absolve them of their duties and they were well aware of their rights when they allegedly moved an application for allotment of plots for their houses in the year 1960. It was incumbent upon the petitioners to show any document proving their possession or allotment

vis-à-vis the property qua which relief has been claimed by them.

In view of the above, finding no merit, the instant writ petition is hereby **dismissed**.

(JASWANT SINGH)
JUDGE

(SANT PARKASH)
JUDGE

December 04, 2019
Vinay

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>