

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

CWP No.9557 of 2018(O&M)

Date of Decision:-01.02.2019

Kaka Singh & Anr.

.....Petitioners.

Versus

Director Consolidation of Holdings &Ors.

.....Respondents.

**CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH
HON'BLE MR. JUSTICE ARUN KUMAR TYAGI**

Present:- Mr. Gurbir Singh Sidhu, Advocate for the Petitioner.

JASWANT SINGH, J.

CM No.729 of 2019 has been filed under Section 151 CPC for placing on record true copy of the application dated 02.02.1966, as well as copies of jamabandi for the year 1968-69 to 1998-99, as Annexure **P-5** to **P-7**.

For the reasons stated in the CM duly supported by affidavit, the same is allowed and true copy of the application dated 02.02.1966, as well as copies of jamabandi for the year 1968-69 to 1998-99 are taken on record as Annexure **P-5** to **P-7**.

Registry to place the same at appropriate place and paginate the paper book accordingly.

MAIN CASE

Two petitioners, namely, Kaka Singh & Sukhdev Singh have

preferred the instant writ petition seeking quashing of the orders dated 10.02.1994 (**P-1**) and 04.03.1994 (**P-2**) passed by Additional Director Consolidation of Holdings, Jalandhar and Consolidation Officer, Jalandhar respectively, whereby on an application moved by one Gurnam Singh, the partial partition done by the Consolidation Authorities was held to be against the consolidation scheme and consequently, the entire *Khewat* was ordered to be kept joint.

It is the grievance of the petitioners that they were never party to the proceedings that had taken place in the year 1994 and, therefore, the orders passed by the Consolidation authorities are not binding and against law. It is further averred that the petitioners came to know of the impugned orders when one of the co-sharer moved an application for partition before the revenue court and, therefore, limitation cannot come in their way. It is, therefore prayed that impugned order be set aside as the share of petitioners stands decreased due to aforementioned orders.

After hearing learned Counsel for the petitioners and scrutinizing the paper book, we are of the opinion that the instant writ petition is without any merit and, therefore, liable to be dismissed.

A perusal of the impugned orders passed by the Authorities would show that same does not suffer from any illegality whatsoever. Infact through the impugned order dated 10.02.1994 (**P-1**), the Director Consolidation had rightly rectified the wrong committed by consolidation officers at the time of consolidation. It is settled position of law that consolidation authorities cannot go beyond the scheme. Once the scheme required the land of all the persons to remain un-divided, the consolidation officer could not have partitioned the land. Further, it is also settled law

that the consolidation authorities do not have the power to partition the land, much less effect partial partition. Consequently, the Additional Director Consolidation had rightly rectified the error committed by the Consolidation officer vide impugned order dated 10.02.1994 (P-1).

It is seen that on remand from Additional Director Consolidation, Consolidation officer, vide order dated 04.03.1994 (P-2) rectified the last jamabandi of Consolidation by keeping the entire Khewat as Joint amongst the co-sharers.

On a pointed query, learned Counsel for the petitioners has not been able to show as to how his share stands effected due to the rectification of Jamabandi in the year 1994 and as to how the said Jamabandi after rectification was not in the knowledge of the petitioners for nearly 24years. Further, he has not been able to show by placing on record the consolidation scheme that the order passed by Additional Director Consolidation was factually incorrect. No plausible explanation on any aspect is coming forth, either from the pleadings or during arguments.

Consequently, the instant writ petition is hereby dismissed not only on merits but also on the ground of delay and laches.

(JASWANT SINGH)
JUDGE

(ARUN KUMAR TYAGI)
JUDGE

February 01, 2019
Vinay

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