

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

114

**CWP No.25585-2021
Date of Decision:16.12.2021**

RAN SINGH AND ANR.

... PETITIONERS

VERSUS

**THE COMMISSIONER, GURUGRAM DIVISION,
GURUGRAM & ORS.**

... RESPONDENTS

**CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE
MASIH.**

HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

(PROCEEDING THROUGH V.C.)

**Present: Mr. Gopal Sharma, Advocate
for the petitioners.**

AUGUSTINE GEORGE MASIH, J. (Oral)

Challenge in this writ petition is to the order dated 28.11.2017 (Annexure P-14) passed by the Commissioner, Gurugram Division, Gurugram.

Learned counsel for petitioners has submitted that while passing the impugned order dated 28.11.2017 (Annexure P-14), the Commissioner, Gurugram Division, Gurugram exercising the powers under Section 42 of the Consolidation Act, 1948 has wrongly proceeded to dismiss the application, which had been preferred by the petitioners under Section 42 of the Consolidation Act, 1948 merely on the basis of the fact that the petitioners had approached the Commissioner after an inordinate delay of 58 years as the consolidation had taken place in the year 1959-60 and the application had been preferred by the petitioners in

the year 2017. Learned counsel contends that infact, the power under Section 42 of the Consolidation Act, 1948 is specifically provided for taking care of the clerical errors, if any, during the consolidation proceedings. He asserts that as per the *Istmal Aarazi* of village Dharan (translation whereof is appended as Annexure P-8), the khasra no.40/27 with area of 11 marlas has been shown as *Chah Aabnoshi Hakdaran*. The said land therefore, could not have been shown under the ownership of Gram Panchayat. He asserts this on the basis of the subsequent jamabandies which have been recorded by the Revenue Authorities, especially the jamabandi for the year 1959-60 (Annexure P-9), wherein the Gram Panchayat has been shown to be owner and one Faquir Chand son of Net Ram son of Ghadsi Ram resident of village Dharan has been mentioned as *Gair Murusi*. Learned counsel contends that this being a typographical error should have been taken care of by the Commissioner while exercising power under Section 42 of the Consolidation Act, 1948.

This contention of the learned counsel for the petitioners cannot be accepted as in the considered view of this Court, it would not be mere rectification of typographical error, rather it would amount to interference with the scheme which ultimately was finalized and has been given effect to with the coming into force of the said scheme. The alleged jamabandies are in existence since 1959-60 onwards. No objection at all has ever been raised by the petitioners with regard to the said entry. It is after an inordinate delay of more than 58 years when the petitioners came up to file an application under Section 42 of the Consolidation Act, 1948, which cannot be permitted at this highly belated stage in the light of

judgment of the Hon'ble Supreme Court in **Gram Panchayat Kakran Vs. Additional Director of Consolidation, 1997(4) RCR (Civil) 498**, wherein the Hon'ble Supreme Court had clearly observed that belatedly the powers under Section 42 of the Consolidation Act, 1948 cannot be exercised. A person ought to be vigilant enough to pursue his remedy and the said power cannot be used at any time for the said purposes. While passing the impugned order, reliance has also been placed by the Commissioner on a Division Bench judgment dated 01.05.2015 of this Court rendered in **CWP No.8335 of 2015 titled as Dhoop Singh Vs. State of Haryana and others** where again the same principle has been reiterated while relying upon the above referred judgment of the Hon'ble Supreme Court.

We, in the light of the above, do not find any ground for interfering with the impugned order dated 28.11.2017 (Annexure P-14) passed by the Commissioner, Gurugram Division, Gurugram exercising the power under Section 42 of the Consolidation Act, 1948.

Writ petition being devoid of merit, therefore, stands dismissed.

**(AUGUSTINE GEORGE MASIH)
JUDGE**

16th December, 2021
rajender

**(SANDEEP MOUDGIL)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No