

111

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

CWP-25970-2022 (O&M)

Date of decision:19.01.2023

ABHEY KUMAR

...Petitioner

Versus

THE DIRECTOR LAND RECORDS PUNJAB AND OTHERS

...Respondents

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLR MR. JUSTICE KULDEEP TIWARI**

Present: Mr. Jatinder Singla, Advocate
for the petitioner.

Mr. Navneet Singh, Sr. DAG, Punjab.

SURESHWAR THAKUR, J. (ORAL)

1. Through the instant petition, the petitioner challenges the making of Annexure P-4, and, also challenges the making of Annexure P-6 by the Director, Land Records, Punjab, Jalandhar [exercising the powers under Section 42 of the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948].

2. The learned counsel appearing for the petitioner submits, that though there was an apparent rectifiable error, at the instance of the Director concerned, in the Musavi, which became prepared during the course of consolidation operations by the Consolidation Department concerned, inasmuch as, in the preparation of the Musavi, the Consolidation Officer(s) concerned, rather not bearing in mind the reflection of karukans/sides, as made in the Field Book concerned. Therefore, it is submitted by the learned counsel for the petitioner that the unmindfulness of the Authorities concerned, in theirs drawing

the Musavi in respect of the petition lands vis-a-vis the Field Book concerned, renders the Musavi to be amenable for a correction being made. He submits that the above correction, as became strived through Annexure P-3, before the Director concerned, became unlawfully declined, inasmuch as, the Director concerned, instead of making an independent, and, objective examination of the entire records, rather he merely asked for a report in the above regard, being made by the Officer subordinate to him, and, also proceeded to *ipso facto* make dependences thereons hence *dehors* any application of mind.

3. The order comprised in Annexure P-4, though was a final, and, conclusive order irrespective, of its being legally frail, and, was amenable for a challenge being made thereto, rather by the petitioner through his instituting a writ petition, before this Court, but the petitioner constituted thereagainst a mis-constituted remedy of its purportedly seeking its review. The review petition concerned, resulted in its apt dismissal through an order carried in Annexure P-6. Therefore, the order made in Annexure P-6 does not suffer from any infirmity. Nonetheless, the order embodied in Annexure P-4 does suffer from a gross, and, pervasive infirmity inasmuch as, the Authority concerned, which pronounced the same has without independent application of mind, and, without making any objective appreciation of the materials, which were required to be elicited by him from the Authorities concerned, rather he merely made dependences, upon the report of the Inquiry Officer concerned, and, that too without any objective, and, independent application of mind *qua* whether the said report was made in accordance with law.

4. In the face of the above, this Court is constrained to interfere with Annexure P-4, and, accordingly the instant petition is allowed, and, Annexure P-4 is quashed, and, set aside. However, with a direction upon the Authority

concerned, which drew Annexure P-4 to restore petition No.147 of 2010 to its original number, and, thereafter to make a lawful decision thereons, but only after hearing all affected concerned.

5. Since it appears that the remedy of revision, as availed against Annexure P-4 was a mis-constituted remedy. Therefore, necessarily though Annexure P-4 was assailable promptly since its drawing, yet it appears, that in the garb of review thereof, being asked for, from the Authorities concerned, the petitioner has attempted to save the petition from its being barred by the vices of delay, and, latches. However, the bar of delay and latches may not be attracted against the petitioner, as *prima-facie* the petitioner, is protected by the mandate of Section 14 of the Limitation Act.

6. Pending miscellaneous application(s), if any, stand(s), disposed of.

(SURESHWAR THAKUR)
JUDGE

19.01.2023

Ithlesh

(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned:-	Yes/No
Whether reportable:	Yes/No