

CWP-23403-2023

2023:PHHC:134603-DB

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CWP-23403-2023

Date of Decision : **October 16, 2023**

JAGJIT SINGH AND ANOTHER

.....Petitioners

VERSUS

DIRECTOR, LAND RECORDS, PUNJAB, JALANDHAR AND ORS

.....Respondents

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

Present : Mr. Paritosh Vaid, Advocate for the petitioners.

Mr. Maninder Singh, DAG, Punjab.

KULDEEP TIWARI. J.

1. The father of the petitioners filed an appeal under Section 21 (4) of The East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948 (hereinafter referred to as '**the Act of 1948**') challenging therein, the order dated 28.3.1969 (Annexure P-2), passed by the Settlement Officer, Consolidation of Holdings, Amritsar. The said appeal was filed on dated 18.12.2014 i.e. after 45 years of passing of the order(Supra).

2. The challenge was rested merely on the grounds that the order dated 28.3.1969 was passed in the absence of the predecessor-in-interest of the petitioners, as before passing of the said order, the disputed land was purchased by Baba Harnam Singh, predecessor-in-interest of the appellant. Further submitted that the order (Supra), came into notice of the appellant only in November, 2014, when placed on record by the

respondents before the Court of SDM-cum-Collector in the partition proceedings. The appeal was accepted vide order dated 31.5.2016 (Annexure P-7), by the Additional Deputy Commissioner-cum-Assistant Director Consolidation, Punjab, Jalandhar. The appellate authority concluded that the order dated 28.3.1969, was passed in the absence of the appellant by the Settlement Officer, Amritsar, Punjab and further observed that the orders dated 9.4.1970 and dated 12.12.2012, thus cannot be implemented as the possession on the basis of such orders after such a long delay cannot be delivered and finally the order dated 28.3.1969 was set-aside.

3. Having aggrieved by the order dated 31.5.2016, respondents No. 5 to 8 herein had challenged the above order by filing an appeal under Section 42 of the Act of 1948, before the Director, Land Records, Punjab, Jalandhar. The said appeal was accepted vide order dated 23.8.2023 and the order dated 28.3.1969 was affirmed. This caused grievance to the petitioners and the instant writ petition has been filed challenging the impugned order dated 23.8.2023 passed by the Director Land Records, Punjab, Jalandhar, by invoking the superintending power envisaged under Article 227 of the Constitution of India. The petitioners have also challenged the order dated 28.3.1969 (Annexure P-2), passed by the Settlement Officer, Consolidation of Holdings, Amritsar, Punjab under Section 21(3) of the Act of 1948.

4. The learned counsel for the petitioners has argued that the order dated 28.3.1969 was passed behind the back of the predecessor-in-

interest of the petitioners and the same was never implemented. Neither the mutation was registered nor the revenue record was updated, therefore, the same cannot be implemented after such a long time. He has further submitted that the shortfall would not be of mere 5 marlas as recorded in the impugned order dated 28.3.1969 but it would be about 5 kanals of the land in case the original order dated 28.3.1969 is maintained. In order to substantiate his arguments, he has stated that throughout the partition proceedings pending before the competent authority concerned, the respondents have never brought this order on record and the petitioners were put in possession upon completion of the partition proceedings.

5. With the able assistance of the learned counsel for the petitioners and the learned State counsel, we have examined the legality of the impugned orders.

6. As per the findings of the Director, Land Records, Punjab, Jalandhar, the order dated 28.3.1969 was passed in the presence of Bhagwan Singh (arrayed as respondent therein), who was one of the co-sharer in the joint *khewat* and no appeal was ever preferred against the order (Supra). Vide order dated 28.3.1969. the Settlement Officer concerned, granted relief to respondents No.5 to 8 shifting their *tuck* (Block) which was on both sides of the *Nallah* to one side and this order was passed after hearing both the parties and as per the proceeding of possession, the possession was transferred on the spot which is apparent upon a perusal of orders dated 28.3.1969 and 9.4.1970. The Settlement

Officer while accepting the objections, consolidated the *tuck* (Block) of the objector on one side of the *Nallah*.

7. We have examined the entire record and heard the learned counsel for the parties at length.

8. However, the learned counsel for the petitioners has not been able to point out any illegality in the order dated 28.3.1969, except that the order has been passed in the absence of the predecessor-in-interest of the petitioners, which was found to be inaccurate, as per the record by the Director, Land Records concerned, while passing the impugned order dated 23.8.2023. The delay of 45 years has neither been explained nor legally condoned by the Additional Deputy Commissioner-cum-Assistant Director Consolidation, Punjab, Jalandhar, while passing the order dated 31.5.2016, which was aptly interfered by the Director Land Records, Punjab, Jalandhar, while exercising the powers envisaged under Section 42 of the Act of 1948.

9. In view of the above discussion, we do not find any perversity or illegality in the impugned orders, therefore, the same are, hereby, affirmed and maintained. In sequel, the writ petition is dismissed being devoid of merits.

(SURESHWAR THAKUR)
JUDGE

(KULDEEP TIWARI)
JUDGE

October 16, 2023
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Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No