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CWP-9662-2023 (O&M) and connected matters

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

Date of Decision: 20.05.2025

1. CWP-9662-2023 (O&M)

NARINDER SINGH AND ANOTHER	.. Petitioners
V/S	
THE COMMISSIONER, KARNAL AND OTHERS	..Respondents

2. CWP-10153-2023 (O&M)

JAIPAL AND ORS	.. Petitioners
V/S	
STATE OF HARYANA AND OTHERS	..Respondents
AND	

3. CWP-11519-2023 (O&M)

BALWAN SINGH	.. Petitioner
V/S	
STATE OF HARYANA AND OTHERS	..Respondents

**CORAM: HON'BLE MR. JUSTICE SHEEL NAGU, CHIEF JUSTICE
HON'BLE MR. JUSTICE SUMEET GOEL**

Present: Mr. Jaivir Yadav, Sr. Advocate with
Mr. Gursimrat Sandhu, Advocate,
Mr. Aman Gautam, Advocate and
Mr. Ashutosh Sharma, Advocate
for the petitioners in CWP-9662-2023.

Mr. Sanjiv Gupta, Advocate
for the petitioner in CWP-10153-2023 and
CWP-11519-2023.

Mr. Deepak Balyan, Addl. A.G., Haryana.

Mr. Manoj Pundir, Advocate
for LR's. of respondents No.3, 9 to 11 in CWP- 9662-2023
and for Caveator in CWP-11519-2023.

Mr. Vijay Kumar Jindal, Sr. Advocate with
Mr. Akshay Jindal, Advocate and
Mr. Abhishek Shukla, Advocate
for respondents No.6 and 7 in CWP-9662-2023.

Mr. Vikram Singh, Advocate and
Mr. Harkirat Singh, Advocate for respondent No.12.

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SHEEL NAGU, CHIEF JUSTICE, (ORAL)

1. By this common order, three writ petitions, the details of which have been given in the head note, are being decided as these petitions involve the same question of law on similar facts.

2. The present petition assails the order dated 28.02.2023 (Annexure P-27) passed by the Commissioner, Karnal, Division Karnal, in the exercise of suo moto powers, which were invoked at the instance of the petitioners by filing a petition under Section 42 of the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948.

3. The factual matrix of the case, as projected by learned counsel for rival parties is that an order was passed on 22.05.1998 by the Consolidation Officer under Section 21(1) of the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948, as applicable to the State of Punjab and Haryana, in respect of the petitioners.

3.1. In normal course, petitioners could have availed remedy of two appeals one under Section 21(3) while the other under Section 21(4) of Consolidation Act, 1948 before the Settlement Officer (Consolidation) and the Assistant Director of Consolidation, respectively. However, the petitioners chose not to avail the said remedies of appeals and instead directly invoked the suo motu revisional jurisdiction of the Commissioner under Section 42 of the said Act.

3.2 The Commissioner, Karnal, Division Karnal dismissed the application of the petitioners on the ground of limitation alone, without entering into the merits of the matter.

3.3 Learned counsel for the petitioners do not dispute that no attempt was made on the part of the petitioners to seek condonation of delay

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in approaching the Commissioner, since the order assailed was passed in 1998, whereas the approach to the Commissioner was made only in 2022.

4. In the considered opinion of this Court, there does not appear to be any jurisdictional error in the order passed by the Commissioner, since he was well within his powers vested in him by the said Act, to dismiss an application which was belatedly filed without any explanation for delay.

5. At this juncture, learned counsel for the petitioners submit that Section 42 of the Consolidation Act, 1948 does not provide for any limitation, therefore, the Commissioner ought to have entertain the dispute on merits.

6. It is pertinent to mention that Rule 18 of East Punjab Holdings (Consolidation and Prevention of Fragmentation) Rules, 1949 when read with Section 42 of the Consolidation Act, 1948 clearly prescribes a limitation period for invoking revisional jurisdiction against the order:

“18. Limitation for application under section 42—An application under section 42 shall be made within six months of the date of the order against which it is filed:

Provided that in computing the period of limitation, the time spent in obtaining certified copies of the orders and the grounds of appeal, if any, filed under sub-section (3) or sub-section (4) of section 21, required to accompany the application shall be excluded:

Provided further, that an application may be admitted after the period of limitation prescribed therefor if the applicant satisfies the authority competent to take action under section 42 that he had sufficient cause for not making the application within such period.”

Therefore, any application or revision petition filed beyond the prescribed period of 6 months without any cogent explanation or formal application for condonation of delay, is liable to be dismissed as time barred. The authorities are not expected to entertain stale claims after the

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expiry of statutory period unless sufficient cause for delay is shown, failing which such applications are unsustainable in law. In the present factual matrix, there is an inordinate delay of 24 years in approaching the Commissioner, that too with no application for condonation of delay.

6.1 Even if, a particular provision while providing remedy to an aggrieved person does not prescribe any specific period of limitation, it is now well settled that the limitation is to be construed as a reasonable period, as per the *dicta* of the judgment of the Apex Court in “***Gram Panchayat, Kakran Vs. Addl. Director of Consolidation, 1997 (8) SCC 484***”, relevant whereof reads thus:-

“3. Rule 18 of the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Rules, 1949 prescribes that an application under Section 42 shall be made within six months of the date of the order against which it is filed. Under the 2nd proviso to that Rule, there is a power to admit the application after the period of limitation, which requires the applicant to satisfy the authorities that he has sufficient cause for not making the application within such period. The 2nd respondent has relied upon a decision of the Full Bench of the Punjab and Haryana High Court in the case of Jagtar Singh v. Addl. Director, Consolidation of Holdings, AIR 1984 P&H 216. In this decision the High Court had held that the period prescribed under Rule 18 will apply only in respect of orders which are passed under the Act and will have no application to a scheme which is framed or repartition which has been effected under the Act.

4. This, however, cannot be understood as enabling the party which is aggrieved by the scheme or by repartition to make an application under Section 42 after an unreasonably long lapse of time. Even where no period of limitation is prescribed, the party aggrieved is required to move the appropriate authority for relief within a reasonable time. In fact this Court in the case of Gram Panchayat v. Director, Consolidation of Holdings, 1989 Supp(2) SCC 465, dealing with Rule 18 itself, said that when no limitation is prescribed for an application under Section 42 dealing with confirmation of the scheme, the application should be made within a reasonable time and this question will have to be decided on the facts of each case. In that case the delay of about 3 years and 8 months in filing an application under Section 42 by the Panchayat was held to be not unreasonable. In the present

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case, however, the delay is of 40 years. We have tried to ascertain from the 2nd respondent whether there is any explanation for this unreasonable and inordinate delay. But no satisfactory explanation appears to be there for this inordinate delay in making the application under Section 42. The only contention which has been urged before us by Respondent 2 relates to the application of Rule 18 and the period of limitation prescribed therein not being applicable where the challenge is to the consolidation scheme and repartition. But even if Rule 18 is not directly attracted, an application which is made after such inordinate delay ought not to have been entertained. It is also contended by the 2nd respondent that the appellants have no locus standi to challenge the order of the Additional Director of Consolidation in a writ petition because the land in question continued to remain in the name of the proprietary body. He drew our attention to Rule 16(ii) of the said Rules. Rule 16(ii), however, quite clearly provides that the management of such land shall be done by the Panchayat of the estate or estates concerned on behalf of the village proprietary party and the Panchayat shall have to utilise the income and the benefits of the estate or estates concerned. Even before the Additional Director, the appellants were made a party-respondent. This contention, therefore, has no merit.”

7. In view of above, there is no jurisdictional error in the impugned order dated 28.02.2023, therefore, this Court in its extraordinary writ as well as the supervisory jurisdiction under Articles 226 and 227 of the Constitution of India, declines to interfere.

8. However, it is open for the petitioners to approach the Appellate Authority under Section 21(3) and thereafter under Section 21(4) of the Consolidation Act, 1948, after explaining the delay and latches to the satisfaction of the said Appellate Authorities.

9. Since this Court had protected the petitioners by an interim order passed on 05.05.2023, which directed parties to maintain status quo in respect of the disputed lands, this Court directs that the said protective order shall continue, but only if the Appellate Authority is approached within a period of 30 days. The Appellate Authority shall decide on the question of admission as well as interim relief including that of condonation of delay, as



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per law, without being influenced by the fact of petitioners approaching this Court or of passing of this order.

- 10. All three writ petitions stand disposed of.
- 11. Pending applications, if any, shall also stand disposed off.

(SHEEL NAGU)
CHIEF JUSTICE

20.05.2025
Jasmine Kaur

(SUMEET GOEL)
JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No