

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARHSr. No.112CWP-18479-2024Date of decision : 25.08.2025

Rakesh

..... Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL
HON'BLE MR. JUSTICE PARMOD GOYALPresent : Mr. Aakash Dalal, Advocate, for the petitioner.

Mr. Saurabh Mago, DAG, Haryana.

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DEEPAK SIBAL, J. (Oral)

1. Through the instant petition, challenge is made to the order dated 24.04.2023, passed by the Divisional Commissioner, Rohtak Division, Rohtak (for short, the Commissioner), through which the petitioner's application, filed by him under Section 42 of the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948 (for short, the Act), has been dismissed.

2. The facts, in brief, which are required to be noticed for deciding the instant petition are that consolidation proceedings in village Gubhana, Tehsil Badli, District Jhajjar were concluded in the year 1960-61. On 15.12.2021, the petitioner filed an application under Section 42 of the Act seeking therein to challenge the consolidation scheme primarily on the ground that at the time of finalization of the consolidation proceedings no passage was provided to his land. Through the impugned order dated 24.04.2023, the Commissioner dismissed the petitioner's application on the ground of delay.

3. Learned counsel for the parties have been heard and with their able



assistance the record of the case has also been perused.

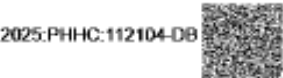
4. It is not disputed that only after notice to all concerned the consolidation proceedings in the petitioner's village were finalized in the year 1960-61. That being so, the petitioner's application, filed by him under Section 42 of the Act, after about 61 years of the finalization of the consolidation proceedings, seeking therein correction in the consolidation scheme, was highly belated and therefore, rightly dismissed through the impugned order on the ground of delay especially when the petitioner did not offer any worthwhile explanation for the inordinate delay on his part in the filing of his application.

5. The afore view of ours finds support from the following observations made by the Supreme Court in ***Gram Panchayat, Kakran Vs.***

Addl. Director of Consolidation, (1997) 8 SCC 484: -

*“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. Additional Director, Consolidation of Holdings, Jalandar, 1984 R.R.R. 31 : AIR 1984 Punjab and Haryana 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 for 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 reasonable time. In fact this Court in the case of ***Gram Panchayat, Village Kanonda v. Director, Consolidation of Holdings, 1989 Suppl. (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 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 No. 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 is 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 Additional Director, the appellants were made a party-respondent. This contention, therefore, has no merit.”

6. Dismissed.

[DEEPAK SIBAL]
JUDGE

25.08.2025
shamsher

[PARMOD GOYAL]
JUDGE

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