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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 132/2025

**SURAT SINGH BATH (DECEASED) THROUGH HIS
LEGAL HEIR SMT. MANJIT KAUR GOSAL**Petitioner

Through: Mr. Rizwan, Mr. Sachin Chopra &
Ms. Nistha Sinha, Advocates.

versus

GOVT. OF NCT DELHI & ORS.Respondents

Through: Mr. Abhinav Singh, Mr. Praveen
Kaushik & Mr. Abheet Mangleek,
Advocates for GNCTD.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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08.01.2025

CM APPL. 535/2025 (*exemption*)

Exemption allowed, subject to all just exceptions.

The application stands disposed of.

W.P.(C) 132/2025 & CM APPL. 534/2025 (*condonation of delay*)

1. The petitioner has filed this petition under Article 226 of the Constitution against orders dated 11.09.2020 passed by the Revenue Assistant/SDM (Alipur) and 21.09.2023 passed by the Deputy Commission/Assistant Director (Consolidation) under the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948 ["Act"].

2. Mr. Abhinav Singh, learned counsel for the Government of



National Capital Territory of Delhi [“GNCTD”], who appears on advance notice, takes a preliminary objection that the impugned orders are subject to the alternative remedy of revision before the State Government under Section 42 of the Act. He states that the revisional authority is the Finance Commissioner.

3. The original proceedings in the present case arise out of an order of re-partition passed by the Consolidation Officer under Section 21(1) of the Act. The said order was subjected to appeal before the Settlement Office (Consolidation) under Section 21(3) and the Assistant Director of Consolidation under Section 21(4) of the Act, which have culminated in the impugned orders dated 11.09.2020 and 21.09.2023.

4. Section 42 of the Act reads as follows:-

“42. Power of [State] Government to call for proceedings: The [State] Government may at any time for the purpose of satisfying itself as to the legality or propriety of [any order passed, scheme prepared or confirmed or repartition made by any officer under Act], call for and examine the record of any case pending before or disposed of by such officer and may pass order in reference thereto thinks fit:

Provided that [no order or scheme or repartition shall be varied or reversed without giving the parties interested notice to appear and opportunity to be heard [except in cases where the State Government is satisfied that the proceedings have been vitiated by unlawful consideration].

1. Section 6 of Punjab Act NO.27 of 1960, reads as follows: -

Validation: - Notwithstanding anything to the contrary contained in any judgment, decree or order of any court-

(a) where, in any scheme, made before the commencement of this Act, land has been reserved for the panchayat of the village concerned for utilizing the income thereof, or

(b) where before such commencement the State Government or any authority to whom it has delegated its powers has passed an order under section 42 of the principal Act revising or rescinding a scheme



prepared or confirmed or repartition made by any officer under that Act'

Such reservation of land or such order, as the case may be, shall be deemed to be valid, and any such scheme or order shall not be questioned on the ground that such reservation of land could not be made or, as the case may be, that under section 42 of the principal Act, the State Government or such authority had no power to pass such order.

2. Section 11 of Punjab Act NO.25 of 1962 reads as under: -

"Validation.-Notwithstanding anything contained in the principal Act or in any other law for the time being in force or in any judgment, decree or order of any court or other authority, where, at any time before the commencement of the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Second Amendment and Validation Act, 1962.-

(a) the State Government or an officer, to whom powers of the State Government under section 42 have been delegated 'has passed an order against an order of the Assistant Director of Consolidation passed by him under subsection (4) of section 21 of the principal Act, as a delegate of the State Government, the order under section 42 shall be and shall be deemed always to have been valid and shall not be questioned on the ground that it could not be made under. that section against the order of the delegate or the State Government: -

(b) any scheme has been confirmed under section 20 of the Principal Act without being published under sub-section (2) or section 19 of that Act, such scheme shall, and be deemed always to have been, valid and shall' not be questioned on the ground that it was not so published."

5. Mr. Rizwan, learned counsel for the petitioner, submits that the power of revision lies against the original order of re-partition, and not against the appellant order. However, Mr. Singh, having taken instructions, states that the Financial Commissioner does entertain revision petitions, even when appellate remedies under Sections 21(3) and 21(4) have been exhausted.

6. Having regard to the provision of Section 42, I do not discern any statutory impediment to exercise of revisional jurisdiction.

7. In these circumstances, the writ petition is disposed of with liberty



to the petitioner to approach the Financial Commissioner under Section 42 of the Act. If the revision petition is filed within a period of two weeks from today, the Financial Commissioner is requested to dispose of the same at the earliest.

8. It is made clear that this Court has not examined the merits of the matter, and the rights and contentions of the parties are left open for consideration in the revision petition. In the event of adverse orders, the remedies of the petitioner also stand reserved.

9. Pending application also stands disposed of.

PRATEEK JALAN, J

JANUARY 8, 2025

'pv/JM'/'