

(2012) 08 P&H CK 0276

High Court Of Punjab And Haryana At Chandigarh

Case No: LPA No. 1616 of 2011 (O and M)

Isher Singh and Others

APPELLANT

Vs

Additional Director,
Consolidation of Holdings
Punjab and Others

RESPONDENT

Date of Decision: Aug. 21, 2012

Acts Referred:

- Civil Procedure Code, 1908 (CPC) - Order 22 Rule 5, 151
- East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948 - Section 42

Hon'ble Judges: Surya Kant, J; R.P. Nagrath, J

Bench: Division Bench

Advocate: Amarjit Markan, for the Appellant;

Final Decision: Dismissed

Judgement

Surya Kant, J.

CM No. 4396 of 2011

1. This is an application under Order 22 Rule 5 read with Section 151 CPC, for impleading the LRs of Nachhattar Singh, namely, Naseeb Kaur (wife) and Bhag Singh (son) as respondents No. 12 and 13, respectively. For the reasons mentioned in the application, the same is allowed. Naseeb Kaur and Bhag Singh, are hereby impleaded as respondents No. 12 and 13 respectively.

CM Nos. 4394 and 4395 of 2011

2. Since the main case has been decided on merits, no separate orders are required to be passed in these applications.

LPA No. 1616 of 2011

3. This Letters Patent Appeal is directed against the order dated 2.8.2010, passed by learned Single Judge allowing CWP No. 2843 of 1984 (Joga Singh and others Vs. Additional Director, Consolidation of Holdings Punjab, Chandigarh and others) and quashing the order dated 10.8.1983, passed by the Additional Director, Consolidation Holdings, Punjab, Chandigarh, in purported exercise of his powers u/s 42 of the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948, (for brevity—"the Act") principally on the ground that the predecessor of the appellants applied u/s 42 of the Act, after an inordinate delay of 22 years. Suffice it to observe that consolidation proceedings of the village were concluded in the year 1960-61 whereas the petition u/s 42 of the Act, was filed by the predecessor of the appellants in the year 1982.

4. The view taken by this Court at one point of time that there is no limitation prescribed for evoking power u/s 42 of the Act was disapproved by Hon'ble Supreme Court in the case of Gram Panchayat, Kakran Vs. Addl. Director of Consolidation and Another,

5. Reliance placed upon by Learned Counsel on a Division Bench decision of this Court in Gram Panchayat village Kolar Khurd Vs. Additional Director Consolidation, 2000 (4) RCR (Civil) 246 also does not advance the case of the appellants as this Court in that case, in no certain terms, ruled that an authority exercising the power under a statute should be reluctant to reopen the settled matters except where there is a clerical error which can be rectified in the interest of justice. The clerical error would mean that when the Consolidation Officer or higher authority held a person entitled to allotment of land more than what was actually allotted to him in terms of khasra numbers, the mistake could be rectified at any time. Predecessors of the appellants, on the other hand, applied for correction of the allotment itself, namely, he made a prayer to make good the deficiency/shortage to the extent of 2 standard kanals and 3 standard marlas. It was obvious that the predecessor in interest of the appellants wanted increase in the land allotted to him under the consolidation proceedings. Such a claim raised after about 22 years could not have been undoubtedly entertained in the light of the principles laid down by the Apex Court in the above-mentioned decision.

6. Consequently, we do not find any ground to interfere with the order passed by the learned Single Judge. Dismissed.