

Dhoop Singh v. State of Haryana , 2015 PLRonline 0013

PUNJAB & HARYANA HIGH COURT

Rajive Bhalla, J. Amol Rattan Singh, J.

Dhoop Singh v. State of Haryana

CWP No.8335 of 2015

01.05.2015

East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948 S. 42, 43-A -Consolidation proceedings concluded in the year 1960-61 - Petition under Section 42 of the Act was filed in the year 2007 - Petition under Section 43-A was filed in the year 2012 i.e. after a delay of more than 40 years - It is true that Section 42 enables a person to file a petition, "at any time" - The expression "at any time" denotes, "reasonable time" - Section 43-A that empowers consolidation authorities to correct clerical errors may also be invoked at any time, but again within a reasonable time - Allowing a petition, under Section 42 or 43-A of the Act, at this belated stage, would involve ascertaining the land owners who have been allotted excess land, thereby requiring a complete re-opening of consolidation proceedings that concluded and attained finality more than 40 years ago - Dismissed. *Gram Panchayat, Kakran v. Additional Director of Consolidation*, 1997 (4) RCR (Civil) 498, relied.

Mr. Dhoop Singh, petitioner in person.

RAJIVE BHALLA, J (ORAL) – The petitioner, who has put in appearance in person prays for issuance of a writ of certiorari, quashing orders dated 10.12.2014 (Annexure P-5) and 31.05.2008 (Annexure P-3), passed by respondent No.2.

2. Dhoop Singh-the petitioner contends that prior to consolidation, the petitioner was owner of 222 kanals and 15 marlas of different grades of land, but during consolidation he was allotted 217 kanals and 16 marlas of different grades of land. The total deficiency in his allotment is 4 kanals and 19 marlas. The petitioner, therefore, filed an application, before the Director, Consolidation Haryana, exercising powers of the State, under Section 42 of the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948 (hereinafter referred to as 'the Act'), for making good the deficiency in his land. The application was, however, dismissed on 31.05.2008 by holding that the petition, cannot be entertained after 45 years. The petitioner thereafter filed an application before the Commissioner, Rohtak Division, Rohtak, under Section 43-A of the Act for correction of clerical error. The application has also been dismissed on the ground of delay and that

the earlier petition, under Section 42 of the Act, has already been dismissed.

3. The petitioner further contends that as neither Section 42 or Section 43-A of the Act prescribe a period of limitation, the petitions could not be dismissed for delay. The errors made by consolidation authorities while allotting land to the petitioner have to be rectified by consolidation authorities.

4. We have heard the petitioner, perused the impugned orders as well as averments in the writ petition but are not inclined to entertain the petition.

5. Admittedly, consolidation proceedings concluded in the year 1960-61. The petition under Section 42 of the Act was filed in the year 2007 whereas the petition under Section 43-A was filed in the year 2012 i.e. after a delay of more than 40 years. It is true that Section 42 enables a person to file a petition, "at any time". The expression "at any time" as held by the Hon'ble Supreme Court in 1997 (4) RCR (Civil) 498, *Gram Panchayat, Kakran v. Additional Director of Consolidation*, denotes, "reasonable time". Section 43-A that empowers consolidation authorities to correct clerical errors may also be invoked at any time, but again within a reasonable time. Allowing a petition, under Section 42 or 43-A of the Act, at this belated stage, would involve ascertaining the land owners who have been allotted excess land, thereby requiring a complete re-opening of consolidation proceedings that concluded and attained finality more than 40 years ago.

6. We, therefore, find no reason to hold that the petitions filed more than four decades after conclusion of consolidation proceedings have been wrongly dismissed. The writ petition is consequently dismissed.

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