

IN THE COURT OF THE FINANCIAL COMMISSIONER, DELHI

Case No. 52/13

**Revision Petition under section
42 of The East Punjab Holding
(Consolidation and Prevention of
Fragmentation) Act, 1948**

In the matter of:-

**1. Ram Kumar Bhardwaj
S/o late Sh. Maha Singh
R/o J-750 , Mandir Marg
Gole Market
New Delhi-110001**

...Petitioner

(Represented by Sh. Suraj Bhardwaj Son of the
Petitioner Sh. Ram Kumar Bhardwaj)

Versus

**1. Sub Divisional Magistrate (SDM)
O/o Deputy Commissioner
Govt of NCT of Delhi
Kanjhawala
Delhi-110081**

**2. Consolidation Officer/Tehsildar
O/o Deputy Commissioner
Govt of NCT of Delhi
Kanjhawala
Delhi-110081**

...Respondents

(Represented by Sh. S.K. Suryan ,
Counsel for R-1 and R-2)

JITENDRA NARAIN, FINANCIAL COMMISSIONER

Dated 28th January, 2016

1. The present revision petition filed under Section 42 of East Punjab Holding (Consolidation and Prevention of Fragmentation) Act, 1948 against the order dated 21.12.1999 & Resolution No. 151 dated 08.03.2000 passed by the Consolidation Officer and SDM/S.O.(C) order dated 10.02.2008.

2. The pleadings of both parties were perused. The brief facts of the case as submitted by the petitioner is as under-

a) That the petitioner is the holder of the Pass Book Consolidation No. 343/125/126 of Village Kanjhawala Hadbast No. 114, Tehsil Saraswati Vihar District North West, Delhi.

As claimed by petitioner following land were allotted during consolidation

<u>Kh. No.</u>	<u>Simple Area</u>	<u>Standard Area</u>
142/284	1—17	3—14
285	0—05	0—10
143/917	0—06	0—12

However petitioner stated that the plot allotted was shifted inside and extent of the plot was also reduced. The details of changes plot are as under:-

<u>Kh. No.</u>	<u>Simple Area</u>	<u>Standard Area</u>
142/285	0—16	1—12
297	1—06	2—12
815	0—05	0—10

It is the grievance of the petitioner that no opportunity was given to the appellant before passing of order dated 21.12.1999 & Resolution No. 151 dated 08.03.2000 by which the specific land allotted and owned by the appellant was changed.

b) It is further stated by the petitioner that the area of land already allotted to the appellant was reduced and further the location of the land was changed illegally in favour of the appellant at a lesser advantageous position as the land allotted originally to the appellant was near main road and now the same has been shifted towards backside with lesser area of land.

c) It is further stated by petitioner during the pendency of application u/s 21 (2) and compliant, the other party had succeed to register mutation in revenue records in connivance with the revenue officials.

d) It is further stated by petitioner that application u/s 21 (2) dated 04.01.2005 of the appellant filed before Consolidation Officer was stated to be not traceable, hence another application u/s 21 (2) was filed on 29.05.2006. But the proceedings u/s 21(2) was stopped by SDM due to direction issued by Dy. Commissioner(N/W) to review the petition u/s 21(3) of East Punjab Holdings Act, 1948 on the basis of ADM(N/W) findings.

e) It is stated by the petitioner that his application u/s 21(2) dated 29.05.2006 was converted/treated u/s 21(3) by the SDM/SO(C). However, SDM/S.O(C) instead of reviewing his earlier order dated 14.06.2004 u/s 21(3), issued a fresh order u/s 21(3) on 23.06.2008. Subsequently the same SDM/S.O(C) reserved/reviewed his own orders vide subsequent order no.

SDM/RA/SV/2008/45 u/s 21 (3) on 10.12.2008. It is alleged by the petitioner that ADM direction was very clear that the way justice can be provided to complainant through review petition/appeal before Settlement Officer/SDM (SV). But instead of reviewing the earlier order of the then SDM dated 15.12.2004, he issued a fresh order u/s 21 (3).

f) It is alleged by the petitioner that Resolution No. 151 dated 08.03.2000 and order dated 21.12.1999 was made on the basis of fake report and wrong recommendation of Patwari as investigated by ADM. The above mentioned observation was recorded in a departmental inquiry and the departmental inquiry recommended action against the Patwari.

g) The petitioner in the petition has completely denied that he had not filed any objection u/s 21 (2) and claims that objections were submitted on 04.01.2005 and 29.05.2006. It is further stated by the petitioner that he had not concealed any material facts of earlier appeal u/s 21 (3) because his application dated 04.01.2005 and 29.05.2006 was u/s 21 (2) against the order u/s 21 (3) passed by the SDM on 15.12.2004. The SDM without passing any order u/s 21 (2) again started the proceedings u/s 21 (3). It is admitted by the petitioner that he had not filed any application u/s 21 (3).

h) It is further stated by the petitioner that he had never concealed any material fact of Civil Suit of ADJ, Tis Hazari and further stated that the Hon'ble ADJ had only rejected appeal being not maintainable and the case was not decide on merits. As the copy of the said order was available in record file of the SDM hence, the ground which was taken by SDM to pass the order dated 10.12.2008 is false and baseless.

i) Hence, by present petition the petitioner prayed that the resolution no. 151 dated 08.03.2000 as well as Order dated 10.12.2008 of RA/SDM/SO(C) be withdrawn and the area allotted to the petitioner according to the original Chakbandi Pass Book which was issued to petitioner on 05.06.1998 be restored.

3. Respondents in their reply have contended that the present petition is not maintainable neither on the facts nor in the law and the same is liable to dismissed. It is stated by the respondents that petitioner has not made Sh. Zile Singh S/o Sh. Bhagwana and Sh. Dharam Singh S/o Sh. Kehri as necessary party hence the petition is not maintainable.

a. It is further contended by the respondents that there is no illegality or regularities in the order of allotment as all the land falling inside **phirni** is of 32 annas and revisionist is having the land inside the phirni as such there is no deficiency in the khata of the revisionist.

b. It is stated by respondents that present revision petition is misuse of process of law, as respondents has passed the order very rightly in the preview of the provisions of law. Hence, the present petition is liable to be dismissed with exemplary cost.

c. It is stated by the respondents that Sh. Ram Kanwar was allotted the plots no. 284, 285 in Khasra no. 142 during repartition u/s 21(1) of East Punjab Holdings Act, 1948 out of pre-consolidation Khasra no. 38/11-12 owner by Sh. Ram Kanwar, Sh. Ram Kishan and Sh. Rameshwar all S/o Maha Singh having 1/9th share and Sh. Pratap Singh, Zile Singh, Chander Singh S/o Sh. Bhagwana also having 1/9th share in the said land of pre-consolidation. Sh. Zile Singh and Sh. Pratap Singh filed objections against the said allotment and after accepting the objection, the Consolidation Officer allotted the plot to Sh. Zile Singh and Sh. Pratap Singh. Thereafter Sh. Zile Singh and Sh. Pratap Singh had raised construction over there without any interruption. The allotment has become final. Later on , Sh. Pratap Singh sold his residential plot no. 142/284min(1-4) to Sh. Sudhir Sharma S/o Paras Ram vide registered sale deed and on the basis of this mutation was also effected in revenue records on 25.02.2005. Subsequently, Sh. Sudhir Sharma sold 1 bigha of land to Smt. Manju Gupta and the mutation in the name of Smt. Manju Gupta was also effected on 27.02.2006.

d. It is contended by the respondents that petitioner had not filed any objection u/s 21(2) of the Consolidation Act against the allotment of residential plot under section 21(1) of the Act. The petitioner earlier filed an appeal u/s 21(3) before SO(C) which was dismissed on 15.12.2004 by holding that the petitioner had not filed any objection u/s 21(2) of the said Act and further that the application is time barred. It is further contended by the respondents that order or resolution was passed by competent authority by exercising his powers. Moreover, the Civil Suit filed by the petitioner was also dismissed on 18.01.2005 by ADJ, Delhi.

e. Hence, the respondent in their reply has contended that the present petition is liable to be dismissed with heavy cost.

4. The detailed arguments of both the parties have heard and materials placed on record are perused. The petitioner's case was presented and defended by Sh. Suraj Bhardwaj son of the petitioner Sh. Ram Kumar Bhardwaj. I have perused the impugned orders for reasons and delay. I find no reason to interfere with however, in the interest of justice a in house inquiry may be conducted by the concerned authority to the following extent and to the necessary correction if any is required. Such inquiry and the facts could not be prejudicial to any one. The petitioner stated that he wants only what is due to him as per the pass book and only in those Khasra where it is due and to the extent it is due. It is contended by the petitioner that Sh. Zile Singh and Sh. Pratap Singh in connivance with revenue officials took his valuable land in Khasra No. 142/284 in front and gave him more in Khasra no. 297 and 285 at the back side. It is admitted by the counsel for the respondents that this dis-advantaged relocation from front to the back could have been possible.

5. In view of the above observation, the RA/SO(C) is directed to examine the limited issue whether the claim of petitioner of getting only 05 bishwa in Kh. No. 142/285 is true and that the petitioner had 1-17 in Khasra no. 142/284 as he produced the original copy of Chakbandi Pass Book. RA/SO(C) to examine whether these were done legitimately or not and whether the land of petitioner was relocated to the back site at disadvantageous location and whether all procedures were followed.

6. With above observation, the petition is disposed off. Announced in open court on 28th January, 2016.

(JITENDRA NARAIN)
FINANCIAL COMMISSIONER, DELHI
Dated 28th January, 2016