

The East Punjab Holdings
(Consolidation and Prevention of Fragmentation)
Act, 1948.
(East Punjab Act 50 of 1948)

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**The East Punjab Holdings
(Consolidation and Prevention of Fragmentation)
Rules, 1949.**

Rules

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**East Punjab Holdings (Consolidation and Prevention of Fragmentation) Validation
Act, 1969.**

**The East Punjab Holdings
(Consolidation and Prevention of Fragmentation)
Act, 1948**

(East Punjab Act 50 of 1948)

Received the assent of his Excellency the Governor General of India on the 7th December 1948, and was first published in the East Punjab Government Gazette, Extraordinary, dated the 14th December 1948.

LEGISLATIVE AMENDMENTS

- Amended by Punjab Act 33 of 1950.
- Amended by Adaptation of Law Order, 1950
- Amended by Adaptation of Laws (Third Amendment) Order, 1951.
- Amended by Punjab Act 8 of 1952.
- Amended by Punjab Act 22 of 1954.
- Amended by Punjab Act 39 of 1954.
- Amended by Punjab Act 40 of 1954.
- Amended by Punjab Act 7 of 1955.
- Amended by Punjab Act 46 of 1956.
- Extended to Pepsu Territory by Punjab Act 5 of 1957.
- Amended by Punjab Act 15 of 1959.
- Amended by Punjab Act 20 of 1959.
- Amended by Punjab Act 12 of 1963.
- Amended by Punjab Act 27 of 1960.
- Amended by Punjab Act 12 of 1962.
- Amended by Punjab Act 25 of 1962.
- Amended by Punjab Act 39 of 1963.
- Haryana Adaptation of Laws Order, 1968.
- Amended by Haryana Act 21 of 1971.
- Amended by Punjab Act 9 of 1969.

An Act to provide for the compulsory consolidation of agricultural holdings and for preventing the fragmentation of agricultural holdings in ¹[the State] of ² [Haryana] ³[and for the assignment or reservation of land for common purpose of the village.]

¹ Subs. For the words ' Province' of East Punjab by Adaptation of Laws (Third Amendment) Order 1951.

² Haryana Adaptaion of Laws Order, 1968.

³ Added and deemed always to have been so added by Pb. Act No. 27 of 1960.

CHAPTER – I

PRELIMINARY

It is hereby enacted as follows: -

Statement of Objects and Reasons: - In the last budget session the East Punjab Legislative Assembly passed a resolution recommending to Government the adoption of necessary measures for compulsory consolidation of holding in the Province and to complete it within the shortest possible time. At present there are two methods of consolidation in vogue in the Province. One is through the Revenue Department and the other through the Co-operative Department. Under the Revenue method of consolidation, if not less than two thirds of the land owners in an estate or a sub-division of an estate holding not less than three fourth of the cultivated area, make an application for the consolidation of their holdings, the application is deemed to be an application on behalf of all the land-owners and any scheme of consolidation is confirmed in such a case it becomes binding on all the land owners and their successors-in-interest. Under the Co-operative method the proprietary body has to agree to the scheme of consolidation and in case of disagreement recourse is made to arbitration. In the past consolidation and in case of disagreement recourse is made to arbitration. In the past consolidation work in the Province has been done through both the Revenue and Co-operative Department but the speed of work has been very slow, and the process has been so lengthy that material results have not been obtained so far.

2. The existing law of consolidation of holding is contained in the Punjab Consolidation of Holdings Act 1936. It is defective legislation in as much as it does not give sufficient powers to Government to undertake compulsory consolidation of holdings. Besides there is no provision in it to avoid fragmentation of holdings due to partition between co shares and other causes. As the prosperity of the peasantry depends chiefly on the size of holdings in the country, Government have decides to implement the resolution passed by the Assembly to repeal the Punjab Consolidation of Holdings Act, 1936, and to replace it by a new enactment. The new Bill is designed to consolidate holdings in villages compulsorily and to avoid fragmentation of holdings (vide East Punjab Government Gazette Extraordinary, dated the 8th October, 1948, Page 601-02).

COMMENTARY

- Order of Director of Consolidation passed without any notice to Gram Panchayat – Order not binding on Gram Panchayat (**1988 (1) All India Land Laws Reporter 416**)

- Land whether Shamlat or given under the act, lessee has no locus standi to challenge the nature of land- Land was held to belong to the proprietors- **1993 (1) ALL INDIA LAND LAWS REPORTER 507.**

1. **Short title, extent and commencement-** (1) This Act may be called the East Punjab Holdings (Consolidation and prevention of Fragmentation) Act, 1948.

(2) It extends to the whole of the ¹(State) of in ²(Punjab) ³ (Haryana)

(3) This section shall come into force (for Punjab) into force in the principal territories of 3 (for Haryana) at once and the remaining provisions of the Act shall come into force in such area and from such date as the (State) Government may by notification appoint in this behalf, and different dates may be appointed for the coming into force of the different provisions of the Act, (and in the transferred territories on the 3rd April, 1957).

2. Interpretation - In this Act, unless there is anything repugnant in the subject or context,-

(a) “Consolidation Officer” means an officer appointed as such under section 14 by the 4(State) Government and includes any person authorised by the (State) Government to perform all or any of the functions of the Consolidation Officer under this Act;

(b) “Consolidation of Holdings” means the amalgamation and the redistribution of all or any of the lands in an estate or sub-division of an estate so as to reduce the number of plots in the holdings;

⁵[(bb) “common purpose” means any purpose in relation to any common need, convenience or benefit of the Village] ⁶ [and includes the following purpose: -

(i) extension of the village abadi ⁷ [-]

(ii) providing income for the Panchayat of the village concerned for the benefit of the village community].

⁸[{iii} village roads and paths; village drains, village well, ponds or tanks, village water courses or water channels; village bus stands and waiting places; manure pits; hada rori; public latrines; cremation and burial grounds; Panchayat Ghar; Janj Ghar, grazing grounds; tanning places; mela grounds; public places of religious or charitable nature; and

(iv) schools and play-grounds, dispensaries, hospitals and institutions of like nature; water works or tube-wells may be managed and controlled by the State Government or not.]

(c) “fragment” means a plot of land of less extent than the appropriate standard area determined under this Act;

Provided that no plot of land shall be deemed to be a fragment by reason of any diminution in its area by diluvion;

1 Sub. For the word “Province” by the Adaptation of Laws Order, 1950.

2 Sub. For the words East Punjab by Adaptation Laws Order, 1950.

3 Sub. By the Haryana Adaptation of Laws Order, 1968.

4 Sub. For the word “Provincial” by the Adaptation of Laws Order, 1950.

5 Inserted by Punjab Act 22 of 1954. The clause shall be deemed always to have been inserted.

6 Added and deemed always to have been so added by Punjab Act 27 of 1960.

7 The word “and” omitted by Punjab Act 39 of 1963, S.2 (a).

8 Inserted Punjab Act 39 of 1963, S. 2 (b).

- (d) “land” means land which is not occupied as the site of any building in a town or village and is occupied or left for agricultural purposes or for purposes subservient to agriculture, or for pasture, and includes the sites of building and other structures on such land;
- (e) “notified area” means any area notified as such under section 3;
- (f) “owner” means in the case of unalienated land the lawful occupant and when such land has been mortgaged, owner means the mortgagor; in the case of alienated land, owner means the superior holder;
- (g) “prescribed” means prescribed by rules made under this Act;

COMMENTARY

Section 2(g), 11 and 42- Constitution of India, Articles 226 and 227- Shamlat Deh-Question of title- Additional Director, Consolidation, made partition as per entry in jamabandi- Held – Additional Director, Consolidation had no authority to go into the question whether the land in dispute was shamlat deh or not. The question could only be determined under Section 11 of the Regulation Act by Collector- Impugned order, set aside being without jurisdiction.; **Gram Panchayat , Chalela and another v. The Director, Consolidation of Holdings, Punjab and others : 2005 (1) Land L.R. (Pb. & Hry.) 507**

(h) “Settlement Officer (Consolidation)” means an officer appointed as such under section 20 by the [State] Government and includes any person authorised by the [State] Government to perform all or any of the functions of the Settlement Officer (Consolidation) under this Act;

(i) “standard area” in respect of any class of land means the area which the ¹[State] Government may from time to time determine under section 5 as the minimum area necessary for profitable cultivation in any particular notified area and includes a standard area revised under the said section;

(j) “sub-division” means a part of an estate recorded as a sub-division, pati, taraf or pana in a record of-right prepared under section 31 of the Punjab and Revenue Act, 1887 (XVII of 1887), provided it forms a compact book; and

(k) words and expressions used in this Act but no defined, have the meanings assigned to them in the Punjab Land Revenue Act, 1887 (XVII of 1887).

CHAPTER II

DETERMINATION OF STANDARD AREAS AND TREATMENT OF FRAGMENTS

3. Determination of notified area.- The [State] Government may, after such inquiry as it deems fit, specify any estate or sub-division of an estate as a notified area for the purposes of this Chapter of this Act.

4. Statement of Standard Areas – (1) The [State] Government may, after such inquiry as it deems fit, provisionally settle for any class of land in any notified area the minimum area that can be cultivated profitably as a separate plot.

(2) The [State] Government shall by notification and in such other manner as may be prescribed publish the minimum areas provisionally settled by it under sub-section (1) and invite objections thereto.

5. Determination and revision of standard areas- (1) The [State] Government shall, after considering the objections, if any received within three months of the date of publication of the notification under sub-section (2) of section 4 in the estate concerned and making such further inquiry as it may deem fit, determine the standard area for each class of land in such notified area.

(2) The ¹[State] Government may, at any time, if it deems it expedient so to do revise a standard area determined under sub-section (1). Such revision shall be made in the manner laid down in section 4 & sub-section (1) of section 5.

(3) The [State] Government shall, by notification and in such other manner as may be prescribed, give public notice of any standard area determined under sub-section (1) or revised under sub-section (2).

6. Entry in the record of rights- (1) On notification of a standard area under sub-section (3) of section 5 for a local area all fragments in the local area shall be entered as such in the record-of-rights.

(2) Notice of every entry under sub-section (1) Shall be given in the prescribed manner.

7. Transfers and Lease of Fragments- (1) No person shall transfer any fragment in respect of which a notice has been given under sub-section (2) of section 6 unless thereby the fragment becomes merged in a contiguous survey number or recognized sub-division of a survey number.

(2) Notwithstanding anything contained in the Punjab Tenancy Act, 1887(XVI of 1887), no such fragment shall be leased to any person other than a person cultivating any land which is contiguous to the fragment.

8. Fragmentation prohibited- No land in any notified area shall be transferred or partitioned so as to create a fragment.

9. Penalty for transfer or partition contrary to provisions of Act- The transfer or partition of any land contrary to the provisions of the Act shall be void.

10. Valuation of fragment. - Any owner of a fragment who intends to sell it shall make an application in this behalf to the Collector for determination of its market price and the Collector shall, after hearing the applicant and the owners of the contiguous survey number or recognised sub-divisions of survey numbers, determine the market price, and such determination shall be final and conclusive for the purpose of this chapter.

11. Transfer of fragment. - The owner referred to in the preceding section shall in the first instance offer the fragment for sale to the owners of contiguous survey or recognised sub-division

of survey numbers and in the case of their refusal to purchase for the price as determined under the last proceeding section may transfer it to the [Government] for the purpose of the [State] on payment by the ¹[Government] of such price as aforesaid to persons possessing interest therein as the Collector may determine and thereupon the fragment shall vest absolutely in the [Government] for the purpose of the [State] free from all encumbrances.

12. Partition of estate assessed to payment of revenue to Government or separation of share thereof. - When a decree is transferred to the Collector under section 54 of the Code of Civil Procedure, 1908 (V of 1908), for the partition of an undivided estate assessed to the payment of revenue to the [Government] in any notified area for which standard areas have been fixed, or for the separate possession of a share of such an estate, no such partition or separation shall be made so as to create a fragment.

13. State Government or local authority not to acquire land so as to leave fragment. - (1) Notwithstanding anything contained in any law or the time being in force no land shall be acquired by the ²[State] Government or any local authority or sold at any sale held under the orders of any court so as to leave a fragment.

(2) If any land acquired by the [State] Government or any local authority is in excess of its requirements, it shall be offered for sale in the first instance to the owners of contiguous survey numbers or recognised sub-divisions of survey numbers at the price at which it was acquired under sub-section (1).

CHAPTER III

CONSOLIATION OF HOLDINGS

14. Government may of its own accord or on application declare its intention to make scheme for consolidation of holdings. - (1) With the object of consolidating holdings in any estates or group of estates or any part thereof for the purpose of better cultivation of lands therein the [State] Government may of its own motion or on application made in this behalf declare by notification and by the publication in the prescribed manner in the estate or estates concerned its intention to make a scheme of the consolidation of holdings in such estate or part thereof as may be specified.

(2) On such publications in the estate concerned the ³[State] Government may appoint a Consolidation Officer who shall after obtaining in the prescribed manner the advice of the landowners of the estate or estates concerned ⁴[and of the non proprietors and the Gram Panchayat, if any, constituted in such estate or estates under the Gram Panchayat Act, [No. IV of 1953] prepare a scheme for the consolidation of holdings in such estate or estates or part thereof as the case may be.

1 Sub. For the word "Crown" by the Adaptation of Laws Order, 1950.

2 Sub. For the word " Province" by the Adaptation of Laws Order,1950.

3 Sub. For the word " Provincial" by the Adaptation of Laws Order,1950.

4 Inserted by East Punjab Holdings (Consolidation and Prevention of Fragmentation) (Amendment and Validation) Act, 1955 (Pb. Act, VIII of 1955)

¹[(3) Where a notification under sub-section (1) has been made in respect of a group of estates and the holding is situated in more than one estate in the group then notwithstanding any thing contained in the Punjab Land Revenue Act, 1887, the scheme prepared by the Consolidation Officer may provide for the alteration of boundaries of such estates].

COMMENTRAY

SS. 14 (2) and 42 – When Director Consolidation ordered partition vide order dated 5.8.1996 on the request from properties of the village, Gram Panchayat challenged the order- Gram Panchayat claimed title to land and said that there was no demand of redistribution as partition was done during consolidation proceedings – Records show that at the time of consolidation, Gram Panchayat was not in existence- Came into being in 1953 only- Law in question never vested in Gram Panchayat – No illegality or infirmity in the order for partition of land; **Gram Panchayat, Ranjit Garh v.Dir., Consolidation of Holdings, Punjab; 1998 (2) ALL INDIA LAND LAWS REPORTER (P&H) 311**

- Section 14-Jurisdiction of the Consolidation Department to take Banjar Qadim into account for land consolidation – Banjar Qadim land is “ no land” for the consolidation purposes- Consolidation scheme was amended and then published and all objections were heard before finalisation of consolidation – None objected to this jurisdiction at that time- Objection cannot be considered at this belated stage- Too late to challenge the scheme – Constitution of India, Art. 226- **1991 (1) ALL INDIA LAND LAWS REPORTER 557**

- SS. 14,24,21,36 AND 42 – Point at issue is the validity of notifications issued by Government under S 14(1) of the Act – Submission of the petitioners is that S. 14 (1) of the Act does not specifically confer on the Government power to reconsolidate the holdings, where consolidation has already been completed- To prevent future fragmentation Government should act under Chapter II of the act-Held-Section 36 provides that scheme confirmed it subject to the orders of the State Government – A subsequent scheme under such circumstances is bound to be prepared and confirmed in accordance with the provisions of the Act- Power under section 36 can be exercised before the repartition and not after that- Section 42 enables the Government to satisfy itself about the legality of the scheme prepared or confirmed or repartition made – Two powers are different- Varying or revoking the scheme is different from examining its legality – Now comes Section 24 under which the possession can be disturbed in three cases – We are concerned with third aspect when possession can be disturbed only when a fresh scheme is brought into force- **THAT CAN ONLY BE WHEN GOVERNMENT DECLARES ITS INTENTION TO MAKE A SCHEME OF CONSOLIDATION** – Necessitated in consequence of transfer or succession etc. resulting in the disintegration of the area in small fragments- This denovo action is to follow notification under S. 14 only- To avoid future fragmentation chapter II of the act can better be used- But that is the administrative function of the Government and court has nothing to say about it- **1993 (1) ALL INDIA LAND LAWS REPORTER 487.**

15. Scheme to provide compensation. - (1) The scheme prepared by the consolidation Officer shall provide for the payment of compensation to any owner who is allotted a holding of less market value than that of his original holding and for the recovery of compensation from any owner who is allotted a holding of greater market value than that of his original holding.

(2)¹ [-]

16. Occupancy Tenancies. – (1) The scheme prepared by the Consolidation Officer may provide for the distribution of land held occupancy tenure between the tenants holding a right of occupancy and his landlord in such proportion as may be agreed upon between the parties.

(2) When the scheme is ²[confirmed] under section 20, the land so allotted to the occupancy tenant and landlord shall, notwithstanding anything to the contrary contained in the Punjab Tenancy Act, 1887, or in any other law for the time being in force, be held by each of them, respectively, in full right of ownership, and the right of occupancy in the land allotted to the landlord shall be deemed to be extinguished.

Sections 16, 18, and 23-A- Punjab Holdings (Consolidation and Prevention of Fragmentation) Rules 1949-Rules 16 (ii)- Punjab Village Common Lands (Reg.) Act 1961-Section 7- Appellate Court has confirmed the judgment/decree of the Trial Court- In addition has directed dispossession of the appellant under powers vested in Gram Panchayat under Rule 16(ii) of Consolidation Rules- Appeal by plaintiffs/appellants- It has been held in an earlier suit that land in dispute was a Chiragah ownership rights vested in the entire proprietary body of the village- Even if someone Biswedars have sold this land to the said persons, right of management cannot be taken away from the Panchayat- Any land which has been reserved for common purpose under Section 18 of the Consolidation Act, management of it vests in the Gram Panchayat- Such is clear from Section 2 (b) of the 1961 Act and also by Section 23-A of the Consolidation Act- Appellate court has come to the right conclusion that management vests in Gram Panchayat and Gram Panchayat can dispossess the appellants as per Rule 16 (ii) of the Rules 1949- Appeal dismissed.; **Manushya Swajati Kalyan Dharam Samaj Society v. Gram Panchayat of Village Kherea Sarai alias Bamni Khera, Faridabad : 2005 (2) Land L.R.(Pb. & Hry.) 461**

³[**16-A Power to make provision in scheme to partition joint and joint occupancy tenancies.** – (1) Notwithstanding anything contained in Chapter IX of the Punjab Land Revenue Act, 1887, except section 117, thereof the scheme prepared by the Consolidation Officer may provide for the partition of land between joint-owners of land, or between joint tenants of a tenancy in which

1 Sub-section (2) of Section 15 omitted by the Punjab Act, 23 of 1960 Section 2.
2 Sub, For the words “finally sanctioned” by Punjab Act 35 of 1962 S.2.
3 Section 16-A inserted by Punjab Act 20 of 1959.

a right of occupancy subsists, in accordance with the share of each owner or tenant in the land or tenancy, as the case may be, if-

- (a) such share is recorded under Chapter IV of that Act as belonging to him, or
- (b) the right of owner or tenant to such share has been established by a decree which is still subsisting at the time of preparing the scheme, or
- (c) a written acknowledgment of such right has been executed by all persons interested in the admission of denial thereof.

(2) When the scheme is ¹[-] confirmed under section 20, the land so partitioned shall, notwithstanding anything to the contrary contained in any law for the time being in force, be held by each such owner or tenant in full right of ownership or tenancy, as the case, may be, and the rights of other joint-owners or joint tenants, in the land shall be deemed to be extinguished.

17. Amalgamation of public roads etc. within scheme for consolidation of holdings. - (1) Whenever in preparing a scheme for the consolidation of holdings, it appears to the Consolidation Officer that it is necessary to amalgamate any road, street, lane, path channel, drain, tank, pasture or other land reserved for common purposes with any holding in the scheme he shall make a declaration to that effect stating in such declaration that it is proposed that the rights of the public as well as of all individuals in or over the said road, street, lane, path channel, drain, tank, pasture or other land reserved for common purposes shall be extinguished or, as, the case may be, transferred to a new road, street, lane, path, channel, drain, tank pasture or other land reserved for common purpose laid out in the scheme of consolidation.

(2) The declaration in sub-section (1) shall be published in the estate concerned in the prescribed manner alongwith the draft scheme referred to in section 19.

(3) Any member of the public or any person having any interest or right in addition to the right of public highway, in or over the said road, street, lane, path, channel, drain, tank, pasture or other land reserved for common purposes or having any other interest or right which is likely to be adversely affected by the proposal may within thirty days after the publications of the declaration under sub-section (1), state to the Consolidation Officer in writing his objection to the proposal, the nature of such interest or right and the manner in which it is likely to be adversely affected and the amount and the particulars of his claim to compensation for such interest or right:

Provided that no claim for compensation on account of the extinction or diminution of the right of public highway over such road, street, lane, path, channel, drain, tank, pasture or other land reserved for common purposes, shall be entertained.

(4) The Consolidation Officer shall after considering the objections, if any, made to the proposal submit it with such amendments, if any as he may consider necessary to the Settlement

1 The word "Finally" omitted by Punjab Act 25 of 1962, S.3.

Officer (Consolidation) together with the objections, received his recommendations thereon and a statement of the amounts of compensation, if any, which in his opinion are payable, and of the persons by whom and the persons to whom such recompensation is payable. The decision of the Settlement Officer (Consolidation), on the proposal and regarding the amount of compensation and the persons by whom such compensation, if any, is payable, shall be final.

18. Lands reserved for common purposes. - Notwithstanding anything contained in any law for the time being in force, it shall be lawful for the Consolidation Officer to direct. -

(a) that any land specifically assigned for any common purpose shall cease to be so assigned and to assign any other land in its place;

(b) that any land under the bed of a stream or torrent flowing through or from the Shiwalik mountain range within the ¹[State] shall be assigned for any common purpose;

(c) that if any area under consolidation no land is reserved for any common purpose including extension of the village abadi, or if the land so reserved is inadequate, to assign other land for such purpose.

COMMENTARY

Ss. 18, 21, 23A and 42- Punjab Village Common Lands (Regulation) Act, 1961- S.7- Question is if BACHAT LAND i.e land found surplus after putting it to use for common purposes vests with Gram Panchayat or continues to be owned by the proportions of the village- Such land was shown as entered in the name of Jumla Malkan in revenue record but entry was later changed to favour of Gram Panchayat – Entires stand duly sanctioned- In view of consistent view taken by apex Court and P & H High Court, it has to be held the Bachat land vests with the proprietors and not with Gram Panchayat- How mutation was changed in name of Gram Panchayat, no record has been placed on record- Mutation entry in name of Gram Panchayat has to be ignored- Unutilised land after utilizing the land earmarked for common purposes has to be redistributed amongst the proprietors according to the share in which they had contributed the land for common purposes- Impugned Judgment of the LD Single Judge court be sustained; **Gurjant Singh and another v. Commissioner, Ferozepur Division, Ferozepur and others : 2000 (2) ALL INDIA LAND LAWS REPORTER (Pb. & Hry.) 588**

S.18 – Allotment of land for common purposes to landless persons for building houses is permissible. **1989 (1) ALL INDIA LAND LAWS REPORTER 499.**

Section 18 and 23-A- Plaintiff filing suit for permanent injunction against Panchayat on the ground that he was one of the proprietors in the village Panchayat wanting to allot the land to homeless persons for construction of their houses- Management of land handed over to Gram Panchayat- Gram panchayat can utilize the land in any manner it likes- Plaintiff or others owners

1 Sub. For the word “Provincial” by the Adaptation of Laws Order, 1950.

have no right to restrain the Panchayat from entering upon the management of suit land **1988 (1) ALL INDIA LAND LAWS REPORTER 291.**

Section 18 & 42- Consolidation – Alignment of path to right holder- Challenged after 30 years- No reasonable explanation for delay-Liable to be dismissed being time barred –Held- That even though the limitation prescribed in Rule 18 of the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Rules, 1949 is not applicable to an application filed under Section 42 of the Act, the competent authority cannot entertain an application/petition filed under that Section after long lapse of time. ; **Dalbara Singh and others v. The Additional Director, Consolidation of Holdings, Punjab, Jullundur and another : 2004 (2) Land L.R. (Pb. & Hry.) 41**

19. Publication of draft scheme- (1) When the draft scheme of consolidation is ready for publication the Consolidation Officer shall publish it in the prescribed manner in the estate or estates concerned. Any person likely to be affected by such scheme, shall, within thirty days of the date of such publication, communicate in writing to the Consolidation Officer any objections, relating to the scheme. The consolidation Officer shall, after considering the objections, if any received, submit the scheme with such amendments as he considers to be necessary, together with his remarks on the objections, to the Settlement Officer (Consolidation),

(2) Omitted by Punjab Act 25 of 1962.

COMMENTARY

Ss. 19 and 20- Petitioner is aggrieved by the order of FC by which land allotted to the petitioner was withdrawn and allotted to respondent 3- Petitioner had opted for the land in extended Lal dora (Beshi Phirni) and was allotted this land which had been withdrawn as per orders of FC-On appreciation of facts as well as law FC came to the conclusion that petitioner had been allotted plot no.679 during separation of khasra no. 324- No objection was raised by petitioner- Allotment became final- Benefit of beshi pharim written the extended phiri had to be given to respondent No.3- Benefit of beshi phirni could not be granted to petitioner as the Killas for which benefit was available had been allotted to respondent 3- Finding of fact recorded by FC on appreciation of documentary evidence on record cannot be faulted with; **Shri Shri Ram Batra & Ors v. Financial Commissioner, Delhi and others : 2000 (3) ALL INDIA LAND LAWS REPORTER (Delhi) 553**

Sections 19, 20, 42 & 43-A – Punjab Village Common Lands (Regulation) Act, 1961- Section 2 (g) – Question is what would be the limitation for reversal of steps taken under consolidation proceedings- When no limitation is provided as in this case, such a relief is to be claimed in a reasonable time- Consolidation proceeding completed in 1959-60- Scheme prepared and implemented – After 25 years, respondents 2 to 4 got the land back as per orders of the Director, Consolidation – Why the respondents waited for that long ? Orders of the Director, consolidation is wholly erroneous- Set aside. ; **Gram Panchayat of village Hari Nagar Kherki**

v. Director, Consolidation of Holdings, Punjab and others : 2005 (2) Land L.R. (Pb.& Hry.) 459

Sections 19, 20, 42 & 43-A – Punjab Village Common Lands (Reg.) Act, 1961-Section 2 (g) – Consolidation Proceedings – Lands reserved for common purposes in consolidation Proceedings – Lands reserved for common purposes in consolidation proceedings, if could be given to original owners- Answer has been given in F.B. Judgments reported as 2003(2) ALL INDIA LAND LAWS REPORTER 528- All lands which have been reserved for common purpose as per Consolidation scheme, whether utilised or not, shall vest in Government or Panchayat- Shall not revert back to original land owners – Land in dispute should not have been reverted back to original land owners. ; **Gram Panchayat of village Hari Nagar Kherki v. Director, Consolidation of Holdings, Punjab and others : 2005 (2) Land L.R. (Pb. & Hry.) 459**

20. Confirmation of scheme. - (1) The ¹[State] Government may by notification appoint one or more persons to be Settlement Officers (Consolidation) and, by like notification, specify the area in which each such officer shall have jurisdiction. The Consolidation Officers in the area under the jurisdiction of the Settlement Officer (Consolidation) shall be subordinate to him subject to any conditions which may be prescribed.

²[(2) If no objections are received to the draft scheme published under sub-section (1) of Section 19 ³[-] and also if no written or oral objections to ⁴ [the draft scheme] are received under sub-section (3) by the Settlement Officer (Consolidation), he shall confirm the scheme.

(3) If any objections are received to the draft scheme published under sub-section (1) of section 19 ⁵ [-] or if any written or oral objections are received by the Settlement Officer Consolidation before the confirmation of [the draft scheme] by him, the Settlement; Officer (Consolidation) may after taking the objection into consideration together with the remarks thereon of the Consolidation Officer and also after considering the written or oral objections, either confirm the scheme with or without modifications, or refuse to confirm it. In case of such refusal the Settlement Officer (Consolidation) shall return the draft scheme, with such direction as may be necessary, to the Consolidation Officer, for reconsideration and re-submission.]

(4) Upon the confirmation of the scheme under sub-section (2) or (3), the scheme as confirmed shall be published in the prescribed manner in the estate or estates concerned.

21. Repartition – (1) The Consolidation Officer shall, after obtaining the advice of the landowners of the estate or estates concerned, carry out repartition in accordance with the scheme of consolidation of holdings confirmed under section 20, and the boundaries of the holdings as demarcated

1 Sub. For the word “ Provincial” by the Adaptation of Laws Order, 1950.

2 Sub-sections (2) and (3) substituted by Punjab Act No.12 of 1962.

3 The words “or, within thirty days of its publication, to the amended draft scheme published under sub-section (2) of that section” omitted by Punjab Act No.25 of 1962, S.5 (a) (i).

4 Substituted for the word “ any such scheme” by Punjab Act 25 of 1962, S.5 (a) (ii)

5 The words “or to the emended draft scheme published under sub-section (2) of that section ” omitted by Punjab Act 25 of 1962, S.5 (b) (i).

Shall be shown on the shajra which shall be published in the prescribed manner in the estate or estates concerned.

(2) Any person aggrieved by the repartition may file a written 'objection within fifteen days of the publication before the Consolidation Officer who shall after hearing the objector pass such order as he considers proper confirming or modifying the repartition.

COMMENTARY

S. 21 (1)- Respondent 13, a Co-sharer in khewat No.225, sold her share to J and others after repartition – In consolidation respondent no. 13 got reduced holdings and this resulted in reduced holding of J- Writ Petition is J should not suffer on that account- Consolidation scheme as a whole its relevant for deciding all issues-Consolidation of a right holder is done on the basis of entire holdings in the village- Under the circumstances the holdings of respondent 13 were properly calculated- Respondent 13 could not sell a better title than she had- Nor would the declaratory decree make any difference since it declares the pre-existing rights-Did not create a fresh title- No interference in the well reasoned order dated 11.8.1980 passed by Additional Director Consolidation-Transfer of Property Act, 1881-Ss. 5 & 6 – Specific Relief Act, 1963-Ss.34 and 35; Gulu Ram v. Chief Secretary, Haryana Govt.; 1998 (1) **ALL INDIA LAND LAWS REPORTER (P&H) 466**

Section 21(1) – Constitution of India- Article 226-Delhi Holdings (Consolidation & Prevention of Fragmentation) Rules, 1959- Rule 3- Consolidation proceedings- Consolidation proceedings started in June 1975-Deficiency in allotment-Amended allotment in 1984-Challenge to-Held, petitioners while keeping the benefit cannot now claim that they were not even aware of the order- Records show that bhoomidars were informed by beat of drum- Held, further there has been substantial compliance of service by beat of drum, even though there might not have been a strict compliance of rules – No plausible explanation for delay of 18 years.; **Hukam Chand and others v. The Financial Commissioner and others: 2005 (1) Land L.R. (Delhi) 395**

Section 21(1) – Power of review- Held, that the Additional Director, Consolidation is not empowered to recall or review his earlier erroneous and unjust order whenever it is discovered that the error was due to his own mistaken view on the merits of the controversy. ; **Bachan Singh (Died) through LRs. v. Santokh Singh and others: 2005 (2) Land L.R. (Pb. & Hry.) 311**

- S 21 (2) – Objection filed against repartition – Matter decided by the Consolidation authorities under section 42- Order passed by the Consolidation Officer challenged in writ jurisdiction – Ultimately matter decided by Letters Patent bench- Suit filed to the effect that the order passed by the Additional Director Consolidation of Holdings, Punjab, was against the Scheme and without jurisdiction- Plaint struck off from the record of the civil court exercising writ jurisdiction – 1989 (1) **ALL INDIA LAND LAWS REPORTER 16.**

(3) Any person aggrieved by the order of the Consolidation Officer under sub-section (2) may within one month of that order file an appeal before the Settlement Officer (Consolidation)

who shall after hearing the appellant pass such order as he considers proper.

¹[(4) Any person aggrieved by the order of Settlement Officer (Consolidation) under sub-section (3), whether made before or after the commencement of the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Second Amendment and Validation Act, 1962, may within sixty days of that order, appeal to the Assistant Director of Consolidation.

(5) Any appeal against an order of the Settlement Officer (Consolidation), pending under sub-section (4) immediately before the commencement of the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Second Amendment and Validation Act, 1962, either before the State Government or any officer to whom the powers of the State Government in this behalf have been delegated shall be decided by the Assistant Director of Consolidation.

(6) The appellant authority may entertain an appeal under sub-section (3) or sub-section (4) after the expiry of the period of limitation prescribed therein if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(7) The State Government may by notification appoint any person to be an Assistant Director of Consolidation to exercise the powers under this section in respect of such area as may be specified in such notification.

22. Preparation of record of rights. - (1) The Consolidation Officer shall cause to be prepared a new record of rights in accordance with the provision contained in Chapter IV of the Punjab Land Revenue Act, 1887 (XVII of 1887), in so far as these provisions may be applicable for the area under consolidation giving effect to the repartition ² [and order in respect thereof made] under the preceding section.

(2) Such record or right shall be deemed to have been prepared under section 32 of the Punjab Land Revenue Act, 1887.

23. Right to possession of new holding. - (1) If all the owners and tenants affected by ³[the repartition as carried out under sub-section (1) of section 1], agree to enter into possession of the holding allotted to them there under, the consolidation officer may allow them to enter into such possession forthwith or from such date as may be specified by him.

⁴[(2) If all owners and tenants as aforesaid do not agree to enter into possession under sub-section (1), they shall be entitled to possession of the holdings and tenancies, allotted to them from such date as may be determined by the Consolidator Officer and published in the prescribed manner in the estate or estates concerned, and the Consolidation Officer sell if necessary, put them in physical possession of the holding to which they are so entitled including

1 Substituted for sub section (4) by Punjab Act 25 of 1962, S.6.

2 See Punjab Act 25 of 1962

3 Substituted for the words “ the scheme of consolidation, as the case may be repartition as finally confirmed” by Punjab Act 25 of 1962, S.8 (1).

4 Sub. By Punjab Act 25 of 1962, S.8 (ii)

Standing crops, if any and for doing so may exercise the powers of a Revenue Officer under the Punjab Land Revenue Act, 1887].

(3) If there are standing crops on any holding of which possession has been given under sub-section (2), the Consolidation Officer shall determine ¹[in the manner provided under this Act] the compensation payable in respect of such crops by the person put in possession, who shall, within six months of the date of possession, pay such compensation to the person or persons from whom possession was transferred and in case of default such compensation shall be recoverable from him as an arrear of land revenue.

(4) If any person from whom compensation is recoverable under the scheme fails within 15 days of the ²[date], referred to in sub-section (2) to deposit such compensation in the prescribed manner, it shall be recoverable from him as an arrear of land revenue, and in such case the amount realised, after deducting the expenses, shall be paid to any person having the interest in the holding.

³**[23 A. Management and control of lands for common purposes to vest in Panchayats or State Government** – As soon as a scheme comes into force the management and control of all lands assigned or reserved for common purposes of the village under section 18, -

(a) in the case of common purposes specified in sub-clause (v) of clause (bb) of section 2 in respect of which the management and control are to be exercised by the State Government, Shall vest in the State Government; and

(a) in the case of any other common purpose, shall vest in the Panchayat of that village; and the state Government or the Panchayat, as the case may be, shall be entitled to appropriate the income accruing therefrom for the benefit of the village community, and the rights and interests of the owners of such lands shall stand modified and extinguished accordingly:

Provided that in the case of land assigned or reserved for the extension of village abadi or manure pits for the proprietors and non-proprietors of the village, such land shall vest in the proprietors and non-proprietors to whom it is given under the scheme of consolidation]

COMMENTARY

Section 23-A- Mushtarka Malkan- Bachat land – Shamlat deh-Bachat land i.e.land which remains unutilised after utilising the land for the common purposes so provided under the Consolidation Scheme vests with the proprietors and not with the Gram Panchayat. Teja Singh v. Commissioner (JDC) R.D. & Panchayats Punjab : 2002(3) ALL INDIA LAND LAWS REPORTER (Pb.& Hry.) 453

1 Substituted for the words “ in the prescribed manner” by Punjab Act 23 S.3. of 1950

2 Substituted for the words “ commencement of the agricultural year” by Punjab Act 25 of 1962 S.(iii).

3 Substituted by Punjab Act 39 of 1963, S.3.

Section 23A(b)- Civil Procedure Code, 1908-Section 115, O. 39, Rules 1 and 2 and Section 151- Temporary Injunction-Petitioner contended that land being reserved for as gair mumkin for use by Balmikis who are in possession-Land recorded as Musharqa Malkan, Hasab Rasad Khewat as per jamabandi-Held-'-Land reserved for proprietors or non- proprietors shall vest in them as mentioned under consolidation scheme-Land being in possession of Balamikian and it is gair mumkin ruri-Municipal Council cannot be allowed to whittle. away the user and temporarily restrained from using the land or itself installing tubewell even though said land vested in Municipal Council with extension of Municipal limits; **Sarwan Singh v. Municipal Council, Kapurthala : 2002(1) ALL INDIA LAND LAWS REPORTER (Pb.& Hry.) 294**

Section 23-A and 48- Consolidation proceedings-Land reserved for common purpose-Restoration of land-Allowed on the ground that land had never been used for such purpose-Khasra Gidwaris supported the plea of respondent- Section 23 A mentions the management and control of reserved land vests in gram panchayat as soon as scheme comes into force-Not done so-Held-In absence of leading evidence to the effect that land is reserved for common purposes-Section 23 cannot be invoked for cancelling the restoration orders.; **Gram Panchayat, Nurpur Jattan v. Additional Director Consolidation of Holdings, Punjab, Jalandhar : 2002(3) ALL INDIA LAND LAWS REPORTER (Pb.& Hry.) (DB) 432**

24. Coming into force of scheme-[(1) As soon as the persons entitled to possession of holdings under this Act have entered into possession of the holdings, respectively allotted to them the scheme shall be deemed to have come into force and the possession of the allottees affected by the scheme of consolidation, or as the case may be by repartition, shall remain undisturbed until a fresh scheme is brought into force or a change is ordered in pursuance of provisions of sub-sections (2), (3) and (4) of section 21 or an order passed under section 36 or 42 of this Act].

²[(2) A Consolidation officer shall be competent to exercise all or any of the powers of a Revenue Officer under the Punjab Land Revenue Act. 1887 (Act XVII of 1887), for purposes of compliance with the provisions of subsection (1)].

COMMENTARY

Ss.24 & 42- In proceeding of consolidation of holdings and allocation of various land, on objections raised direction was given by the Settlement Officer for adjustment of land allotted to different persons-Aggrieved by the order G filed an appeal, private parties who had appeared before Settlement Officer and whose names were duly mentioned in the impugned order were not impleaded - Such exparte order is under challenge in this L.PA- Counsel for the parties in two LPAs prayed order to be set aside- -And case remanded to Assistant Director for fresh decision-So ordered-Letters Patent Appeal-Clause 10:

1 Substituted by Punjab Act 46, of 1956, and shall be deemed to have been so substituted from the 27-12-1954.

2 New Sub-section(2) added by ibid.

Darshan Singh Lubhana v. Addl.Dir., Consolidation of Holdings, Punjab, Jalandhar; 1999(3) ALL INDIA LAND LAWS REPORTER (P&H) 154

25. Right to landowners and tenants after consolidation same, as before- A landowner or tenants shall, subject to the provisions of ¹[sections 16 and 16-A] have the same right in the land allotted to him in pursuance of the scheme of consolidation as he had in his original holding or tenancy, as the case may be.

COMMENTARY

-Section 25,21 and 42: After auction possession of land was given to the auction purchaser-petitioner-Later Consolidation Authorities having realised that wrong killas numbers had been sold, withdrew these killas and substituted other killas-Central Government or the Rehabilitation authorities not made a party to the dispute-Necessary parties not heard in the matter-Order Quashed **1991(2) ALL INDIA LAND LAWS REPORTER 575.**

²[**25-A Effect of consolidation of holdings on Evacuee Property-**

(1) If in pursuance of scheme or consolidation of holdings any land which is evacuee property within the meaning of the Administration of Evacuee Property Act 1950(XXXI of 1950), is or has been exchanged for any other land which is not evacuee property then such other land shall as from the date of coming into force of the scheme, be deemed to be evacuee property declared as such within the meaning of the said Act and the original evacuee land shall, as from such date, be deemed to have ceased to be evacuee property.

(2) If a displaced person to whom any land has been leased or allotted by the Custodian under the conditions published by the notification of the Government of Punjab in the Department of Rehabilitation No. 4891-S or 4892-S dated the 8th July, 1949 has been allotted some other land in lieu thereof in pursuance of any scheme, for consolidation of holdings, then such other land shall be deemed to have been leased or allotted as the case may be, to such 'displaced person under the aforesaid conditions within the meaning of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (44 of 1954)]. :

(3) In this section, the expressions 'Custodian' and 'displaced persons' have the meanings respectively assigned to them in the Administration of Evance Property Act, 1950 XXXI of 1950) and the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (44 of 1954)].

26. Encumbrances of land-owners and tenants. -(1) If the holding of a landowner or the tenancy of a tenant brought under the scheme of consolidation is burdened with any lease, mortgage or other encumbrance, such lease, mortgage or other encumbrance shall be transferred and attached to the holding or tenancy allotted under the scheme or to such part of it as the Consolidation Officer subject to any rules that may be made under section 46, may have determined in preparing the scheme; and thereupon the lessee,

1 Sub. Punjab Act, 20 of 1959.

2 New Section 25-A inserted by Punjab Act, 40 of 1954.

mortgagee or other encumbrancer, as the case may be, shall cease to have any right in or against the land from which the lease, mortgage or other encumbrance has been transferred.

(2) If the holding or tenancy to which a lease, mortgage, or other encumbrance is transferred under sub-section (1) is of less market value than the original holding from which it is transferred, the lessee, mortgagee or other encumbrances, as the case may be, shall subject to the provisions of section 34 be entitled to the payment of such compensation by the owner of the holding, or as the case may, the tenant as the Consolidation Officer may determine.

(3) Notwithstanding anything, contained in section 23, the Consolidation Officer shall if necessary put any lessee or any mortgagee or other encumbrances entitled to possession, in possession of the holding or tenancy or part of the holding or tenancy to which his lease, mortgage or other encumbrance has been transferred under sub-section (1);

COMMENTARY

Section 26- Scope and ambit of-Section 26 has been enacted with a view to provide for a statutory fastening of the right which subsisted in favour of the mortgagee or the non-occupancy tenant of the holder of the other encumbrances to the new holding which the land owner or the occupancy tenants is allotted under the scheme of consolidation and repartition made pursuant thereto-Sub-Section (2) of Section 26 provides for payment of compensation to the person holding encumbrance for the value of the right which has been allotted to the land owner in lieu of his original holding is less than market value of the original holding-Sub-Section (3) of Section 26 confers jurisdiction on the Consolidation Officer to put in possession of substituted holding such a lessee or a mortgagee or a holder of encumbrance of the original holding of the land owner or occupancy tenant who has become the owner of the substituted land on confirmation of the scheme and repartition made pursuant thereto-Right created in favour of encumbrance holder including the non occupancy tenant-Jurisdiction conferred on the Consolidation Officer to put a holder of the encumbrance in possession of the corresponding part of the substituted holding allotted to the land owner in lieu of the original holding Section 26 does create an independent right Wrong to contend that it deals only with the rights of such persons to whom land is allowed in the scheme and the repartition made pursuant thereto. **1989(1) ALL INDIA LAND LAWS REPORTER 1.**

-Section 26-Occupancy tenant entitled to substituted holding-Plea of the landlord that the person looking after the land was not tenant but a servant Plea negatived by the authorities under the Act-Person to be treated as tenant entitled to holding in terms of section 22 of the Act **1989(1) ALL INDIA LAND LAWS REPORTER 1.**

27. Transfer of rights of land owners in holdings and of tenants in tenancies.- Notwithstanding anything contained in the Punjab Land Revenue Act, 1887 (XVII of 1887) and the Punjab Tenancy Act, 1887 (XVI of 1887), the rights and liabilities of landowners in their holdings and of tenants in their tenancies shall, for the purpose of giving effect to any scheme of

consolidation affecting them, be transferable by exchange or otherwise and neither the landlord nor tenant nor any other person shall be entitled to object to or interfere with any transfer made for the said purpose.

¹[**27-A. Decree for possession of land to be executed against land allotted on repartition-** Notwithstanding anything contained in the Code of Civil Procedure, 1908 or any other law for the time being in force no decree for possession of land against a judgment debtor whose land has been included in a scheme for consolidation of holdings shall be executed except after repartition ²[and orders in respect thereof under section 2] and against land allotted to him in pursuance of such repartition and orders].

28. Cost of consolidation proceedings.- (1) The cost of consolidation proceedings shall be assessed in the prescribed manner.

(2) The cost of consolidation proceedings shall be recovered from the persons whose holdings are affected by the scheme of consolidation.

29. Compensation or costs or others sums payable under this Act, Compensation under section 15 or costs under section 28 or any other sums due payable under this Act shall be recoverable as an arrear of land revenue.

30. **Transfer of property during consolidation proceedings. -** After a notification under sub-section (1) of section 14 has been issued and during the pendency of the consolidation proceedings no landowner or tenant having a right of occupancy upon whom the scheme will be binding shall have power without the sanction of the Consolidation Officer to transfer or otherwise deal with any portion of his original holding or other tenancy so as to affect the rights of the other landowner or tenant having a right to occupancy therein under the scheme of consolidation.

³[**30-A. Prohibition of cutting trees and erecting buildings, etc., during consolidation proceedings-** (1) After a notification under sub-section (1) of section 14 has been issued and during the pendency of consolidation proceedings no land owner upon whom the scheme will be binding shall have power without the sanction of the Consolidation Officer to cut trees from, and a erect building or other structures upon any portion of his original holding included In the scheme.

(2) If any person contravenes the provisions of sub- section (1) he shall, on conviction, be punishable with fine which may extend to five hundred rupees,

(3) An offence under this section shall be cognizable and bailable.

(4) If any building or other structure is erected in contravention of provisions of sub-section (1) and the land owner fails to remove it within one month of the date of publication of the Shajra under sub-section (1) of section 21 it shall without payment of and compensation vest in the new land- owner enters into possession of that holding as a result of repartition].

1 New Section 27-A inserted by Punjab Act 20 of 1950, S.4.

2 Substituted for the words "as finally confirmed under section 31" and agai land allotted to him in pumlance of such repartiton by Pb. Act 65 of 1962, S.4.

3 New Section 30-A inserted by Punjab Act 12 of 1960, S.2.

COMMENTARY

Section 30- Displaced Persons (Compensation and Rehabilitation) Act, 1985-Section 10-Land allotted in terms of section 10 of the Displaced Persons (Compensation and Rehabilitation) Act, 1985-Section 10-Land allotted in terms of section 10 of the Displaced Persons (Compensation and Rehabilitation) Act-Sanad issued-Consolidation authorities are not competent to interfere with the rights conferred under the Central Act of 1954- **1989(2) ALL INDIA LAND LAWS REPORTER 433.**

31. Transfer not affected by Punjab Alienation of land Act, 1900 -Notwithstanding anything contained in section 3 of the ¹[Punjab Alienation of land Act, 1900, (Punjab Act XIII of 1900), no exchange of land by a member of an agricultural tribe in pursuance of a scheme of consolidation of holdings shall require the sanction of .the Deputy Commissioner under the Act.

² [**32, Suspension of partition proceedings during currency of consolidation proceedings.** -After a notification under sub-section (1) of section, 14 has been issued, no proceedings under Chapter IX of the Punjab Land Revenue Act. 1817, in respect of any estate on a sub-division of an estate affected by the scheme of consolidation shall, subject to the provisions of section 16-A, be commenced and where such proceedings were commenced before the issue of the notification, they shall remain in obedience, during the pendency of the consolidation proceedings.]

33. No instrument necessary to effect transfer. - Notwithstanding anything contained in any law for the time being in force-

(a) no instrument in writing shall be necessary in order to give effect to a transfer involved in, carrying out any scheme of consolidation of holdings, and

(b) no instrument, if executed, shall require registration.

³[**34. Apportionment of compensation or net value in case of dispute.** -

(1) The amount of compensation payable under this

Act shall be assessed, so far as practicable, in accordance with the provisions of sub-section (1) of section 23 of the Land Acquisition Act, 1894 (1 of 1894)].

⁴(2) Where there is dispute in respect of the apportionment of-

(a) the amount of compensation determined under sub- section (2) of section 15, or sub-section 17;

(b) the net value realised under sub-section 4 of section 23:

1 Repealed by Adaptation of Laws (Third Amendment) order, 1951.

2 Sub. By Punjab Act 20 of 1959. S.5.

3 Inserted by Punjab Act, 23 of 1959 S4.

4 Existing provision of Section 34 renumbered as sub-section (2) by Punjab Act, 23 of 1950. Section 4.

(c) the total amount of compensation determined under sub-section (2) of section 26, the Consolidation Officer shall refer the dispute to the decision of the Civil Court and deposit the amount of compensation or net value, as the case may be, in the Court and thereupon the provisions of sections 33,53 and 54 of the Land Acquisition Act, 1894, (1 of 1894) shall, so far as may be, apply.

35. Application of Chapter II to consolidated holdings. - In any estate or group of estates or any part thereof where consolidation of holdings has been effected under this Chapter, the 1[State] Government shall, as soon as may be, take all necessary steps to apply the provisions of Chapter II. .

²**36. Power to vary or revoke scheme.** - A scheme for the consolidation of holdings confirmed under this Act may, at any time, be varied or revoked by the authority which confirms it subject to any order of the State Government that may be made in relation thereto and subsequent scheme may be prepared, published and confirmed in accordance with the provisions of this Act].

CHAPTER IV

OTHER POWERS OF CONSOLIDATION OFFICERS

37. Powers of officers to enter upon land. for purposes of survey and demarcation.- The consolidation officer and any person acting under his orders may, in the discharge of any duty under this act, enter upon and survey land and erect survey marks thereon and demarcate the boundaries thereof and do all other acts necessary for the proper performance of that duty.

Ss. 37 & 42- Punjab Village. Common Lands (Regulation) act, 1961S.2(g)-Gram Panchayat challenged the order of Additional Director, Consolidation by which land in dispute has been ordered to be repartitioned amongst right holders of the village- Consolidation authorities had relied on record of rights from year 1963-64 to 1988-89-Entries are Jumla Mushtarka Malkan (Land belonging to joint owners of village)-In such circumstances, redistribution of the land has been ordered-In that authorities relied upon 1979 ALL INDIA LAND LAWS REPORTER 274-Writ petition is dismissed~ Constitution of India, Arts. 226 & 227; **Gram Panchayat, Village Kot-Mana, . Teh.Jagraon v. Additional Director, Consolidation of Holdings; 1998(2) ALL INDIA LAND LAWS REPORTER (P&H) 280**

38. Penalty for destruction, injury or removal of survey marks. - (1) If any person wilfully destroys or injures or without lawful authority removes a survey mark lawfully erected, he may be ordered by a Consolidation Officer to pay such fine not exceeding fifty rupees for each mark so destroyed, injured or removed, as may, in the opinion of that officer be necessary to defray the expenses of restoring the same and of rewarding the person if any, who gave information of the destruction, injury or removal.

1 Sub. For the word "Provincial" by the Adaptation of Laws Order, 1950.
2 Substituted by Punjab Act 20 of 1953. S.3

(2) The imposition of a fine under this Section shall not bar a prosecution under section 434 of the Indian Penal Code, (XLV of 1860).

39. Report of destruction or injury to survey marks.- Every village officer of an estate shall be legally bound to furnish a Consolidation Officer with information respecting the destruction or removal of, or any injury done to, any survey-mark lawfully erected in the estate.

40. Power of Consolidation Officer or Settlement Officer (Consolidation) to summon persons. - A Consolidation Officer or a Settlement Officer (Consolidation) may summon any person whose attendance he considers necessary for the purpose of any business before him as a Consolidation Officer or a Settlement Officer, (Consolidation).

(2) A person so summoned shall be bound to appear at the time and place mentioned in the summons in person or if the summons allows, by his recognised or a legal practitioner.

(3) The person attending in obedience to the summon shall be bound to state the truth upon any matter respecting which he is examined or made statement and to produce such documents and other things relating to any such matter as the Consolidation Officer or the Settlement Officer (Consolidation) may require.

¹[(4) If a person summoned under sub-section (1) fails, without good cause, to attend or to produce any document or other thing which he may be required to produce, he shall be liable at the discretion of the Consolidation Officer or the Settlement Officer (Consolidation), as the case may be, to a fine which may extend to fifty rupees:

Provided that no such fine shall be imposed on a person unless he was summoned to attend or required to produce any document or other thing within the limits of the estate in which he ordinarily resides holds or cultivates land.

CHAPTER V

GENERAL

41. Appointment of officers and staff and delegation of powers -(1) ²[State] Government may for the administration of this Act, appoint such persons it think fit, and may, by notification delegate any of its powers of function under this Act to any of its officers either by name or designation.

(2) A Consolidation Officer or a Settlement Officer (Consolidation) may, with the sanction of the [State] Government, delegate any of its powers or functions under this Act to any person in the service of the [State] Government.

COMMENTARY

S. 41-For consolidation proceedings service was affected on 6th appearance on 12th-Not a reasonable opportunity afforded to prepare the case,

¹ Added by Punjab Act 8 of 1952, S.2.

² Sub. For the word "Provincial" by the Adaptation of Laws Order, 1950.

engage a lawyer especially when parties are illiterate-Principles of natural justice, violated-Writ petition allowed-Parties directed to appear before Director, Consolidation, later, **1992(2) ALL INDIA LAND LAWS REPORTER 595..**

42. Power of [State] Government to call for proceedings: The ¹[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

1. Substituted by Adoption of Laws Order. for Provincial"

2 Sub. For the word "any order passed by any officer under this Act" by Punjab Act 27 of 1960 & shall be deemed always to have been so substituted.

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."

COMMENTARY

The repartition was made in 1963; Petition under section 42 was filed in 1912. There was no explanation except that there was a stay order from 1965 to 19th July, 1971. Period from July, 1971 to January, 1972 was not explained. It was held that the petition filed under section 42 was belated **1982 ALL: INDIA LAND LAWS REPORTER 561.**

The period of limitation would apply when some order is challenged. Period of limitation is not applicable when scheme prepared or confirmed or repartition made by officer is impugned. The scheme provided that path would be provided to every kurrah which would have the width of 2 karmas. Path was not provided. It was held that the limitation provided in the rules would not apply to such a case. **1981 ALL INDIA LAND LAWS REPORTER 511 (FB).**

Where the delay was condoned in the interest of justice and where the Additional Director was aware of the question of delay it was held that the delay was rightly condoned. **1981 All India Land Laws Reporter 656.**

The revisional authority while up setting the order of the subordinate authority should indicate the reasons on the basis of which the order of subordinate authority is being upset. - Where the Additional Director took a contrary view without indicating any reason the order was quashed. **1982 ALL INDIA LAND LAWS REPORTER 336.**

Section 42- Constitution of India, Art. 226-Recalling of Order-Additional Director ordered repartition-Petitioners were necessary party as land was given to them by Gram Panchayat, but were not impleaded- -Orders passed, not binding upon petitioners- -Orders dismissing application of the petitioners for recalling order cannot be sustained. **Joginder Singh v. State of Punjab. 2002(3) ALL INDIA LAND LAWS REPORTER (Pb.& Hry.) 664**

Section 42- Land in dispute was whether Shamlat Deh or not, Additional Director has no jurisdiction to decide **1998(1) ALL INDIA LAND LAWS REPORTER 476** relied upon.; **Joginder Singh v. State of Punjab : 2002(3) ALL INDIA LAND LAWS REPORTER (Pb.& Hry.) 664**

Section 42- Consolidation- Amendment of Scheme-Scheme of consolidation can be amended under Section 42 of the Act of 1948 in an individual case and the amendment need not necessarily be actual rewriting of a particular provision of the scheme as also that it is proper' and adequate compliance with the proviso to Section 42 of the Act of 1948, if change or amendment or variation in a Scheme of consolidation is made after the authority making the same had before its mind the particular provision of the scheme to be thus affected and the arguments of the parties in respect of the effect of the change-Once the matter is present to the mind of the authority exercising power under Section 42 of the Act of 1948 and after considering the relevant

provision of the scheme, it gives a decision or makes the proviso to Section 42 of the Act. of 1948 and no more is required.; **Mansa Ram v. State of Haryana ; 2002(3) ALL INDIA LAND LAWS REPORTER (Pb.& Hry.) (DB) 738**

Section 42-Repatriation of land- Declaratory suit by respondent that he was not served in the proceedings-Mother of respondent was co-sharer-Duly served and contested the suit without success-Held-Not necessary to implead, serve each of the co- sharer, when one of them was duly served and contested, as the interest of all of co-sharer is same; **Jagjit Singh and others v.Ranvijay Singh and another: 2002(2) ALL INDIA LAND LAWS REPORTER (Pb.& Hry.) 395.**

S.42- Claim of the land owner is that he was allotted lesser land in consolidation proceedings, requested the deficiency to be made good-After perusal of records, consolidation officer ordered restoration-Appeal by Gram Panchayat-Delay of 30 years is the plea in re-opening the case-Respondents stand is that petitioner had got undeserved benefit- Merely on account of lapse of time, error cannot be allowed to be perpetuated and deprive the land owner of his property-No equity in favour of petitioner so as to entitle it to complain of injustice; **Gram Panchayat, village Kolar Khurd v. Additional Director Consolidation: 2002(1) ALL INDIA LAND LAWS REPORTER (Pb.& Hry.) (DB) 629**

Section 42- Shamlat Deh- Jurisdiction-Additional Director has no jurisdiction to decide the dispute in regard to land being Shamlat Deh or not-Only Collector has jurisdiction- 1997(4) ALL INDIA LAWS REPORTER 4 and 1998(1) ALL INDIA LAWS REPORTER 476 relied upon;**Gram Panchayat of Village Diwangarh Tehsil Nabha. VDirector, Consolidation of Holdings, Punjab and others: 2001 (3) ALL INDIA LAND LAWS REPORTER (Pb. & Har.) 129**

S. 42- Application by respondent 4 that his fields had not been carved according to scheme, was accepted by consolidation authorities-Enquiry ordered-Petitioners challenge these orders which are vitiated as passed without hearing them-And while passing impugned orders, competent authorities have not examined entire record- Petitioners were party to the proceedings as per which these orders had been passed-They were as such heard before orders under challenge were passed-As for examination of entire record by competent authority, Additional Director has recorded "examined the record on file"- There was as such' complete compliance of S. 42 of the Act-No infirmity in the orders-No interference; **Savitri Devi v. Additional Director, Consolidation of Holdings, Punjab :2001(3) ALL INDIA LAND LAWS REPORTER (Pb. & Har.) (DB) 161**

S. 42- Impugned orders on application filed by respondent 4 were passed on April 28, 1997- Till August 30, 2000 petitioners had not raised their little finger against these orders-Lapse of 4 years and 4 months- Petitioners have not been able to explain this delay-Petition deserves to be dismissed on short ground of delay; **Savitri Devi v. Additional Director, Consolidation of Holdings, Punjab: 2001(3) ALL INDIA LAND LAWS REPORTER (Pb.& Har.) (DB) 161.**

S. 42- Director Consolidation passed orders to partition Bachat Land and distribute between the right holders according to their entitlement-Left over land after meeting need for "common purposes" land belonged to the proprietary body of the village- Gram Panchayat aggrieved by the order, has prayed for its being set aside-Despite the fact that land was recorded as that in revenue records, Gram Panchayat has been using it-This delayed petition cannot be rejected just on ground of delay alone as no third party rights were created and Gram Panchayat will not be prejudiced in any way-No ground to interfere in the orders of Consolidation Officer; **Gram Panchayat, Nawan Killa v. Additional Director, Consolidation: 2001 (3) ALL INDIA LAND LAWS REPORTER (Pb. & Har.) (DB) 168**

S.42- Punjab Village Common Lands Regulation Act. 1961-8, 13-By this writ petition challenge is to the order of Director Consolidation, directing consolidation officer, to assess the requirements of the village and distribute the remaining land among the right holders-Director Consolidation had no jurisdiction to go into the question whether, land was Shamlat deh or not-Orders set aside; **Gram Panchayat v. The Director, Consolidation of Holdings, Punjab, Jalandhar : 2001 (2) ALL INDIA LAND LAWS REPORTER (Pb. & Hry.) 395**

S.42- Consolidation proceedings- Land for common use set aside by providing prorata cut on the holding of right holders-After using the land for common purposes, the left over land was entered in revenue record as that Gram Panchayat sought to get the land mutated as its own-Gram Panchayat has no title over the left over land – Right holders were entitled to left over land and has been rightly decided by the Courts below-Delay on the part of right holders in approaching the Director, for restoration cannot be reason for dismissal of the petition; **Gram Panchayat of Village Nawan Killa v. Additional Director, Consolidation of Holdings, Punjab and others: 2001(1) ALL INDIA LAND LAWS REPORTER (Pb. & Hry.) 624**

S.42- Punjab Village Common Lands (Reg.) Act 1961, 8.11- Plaintiff suit is that curing consolidation some land wrongly deducted at the time of allotment of land to right holders to make up deficiency-Contention of Gram Panchayat is that plaintiffs had been allowed other full area in lieu thereof- Gram Panchayat has leased out this land on basis of public auction-Admittedly during repartition. consolidation proceedings, some area was deducted out of the area allotted to right holders- Plaintiff petition is for making up the deficiency-If the land in question is shamlat deh it is for the Revenue Court to decide- -If the land is Kami Beshi, it is rightly in the purview of the civil court-Prayer to make up deficiency allowed by consolidation authorities-Gram Panchayat failed before High Court as well as apex Court-Gram Panchayat has no jurisdiction to auction the land held to be belonging to Right holders; **Gram Panchayat, village Balad Kalan v. Ajmer Singh and another: 2001(1) ALL INDIA LAND LAWS REPORTER (Pb. & Hry.) 296**

S. 42- Punjab Village Common Lands (Regulation) Act 1961, 8. 2(g) Right holders prayer for partition of the Bachat Land kept joint during consolidation proceedings-Challenge is also to the mutation sanctioned in the name of Panchayat-Contention of the Gram Panchayat is that consolidate on proceedings completed 38 years earlier and ever since the land is under control

of Gram Panchayat- Additional Director without advertng to the objections of Gram Panchayat, order partition of land among right holders- Appeal-Held-There is no limitation prescribed for filing such applications by Right holders-But application is required to be within a reasonable time-And lapse of 38 years . cannot be said to be a reasonable time-Orders quashed; **Gram Panchayat, Tangrala Tehsil Amloh v. Addl. Director, Consolidation of Holdings, Punjab: 2001(1) ALL INDIA LAND LAWS REPORTER (Pb. & Hry.) 171**

S. 42- Letters patent Bench remanded the case to Add. Director Consolidation to locate and determine the land which will belong to the party-Add. Director travelled beyond the order of remand and recorded a finding that no person could transfer better title than what be possessed-Challenge against-Case again remanded to the Additional Director-Directed to be careful in complying with the directions issued in the remand order; **Shree Guru Granth Sahib Nanaksar, Patti Bir Singh Bahadur v. State of Punjab: 2000(4) ALL INDIA LAND LAWS REPORTER (Pb.& Hry.) 649**

S.42- Village Common Lands (Regulation) Act, 1961-S. 7 & 13-Director, Land Records Jalandhar in exercise of powers under S.42 of the Consolidation Act has amended the scheme of consolidation and ordered partition of Common Land and a part of it to be distributed amongst the right holders- Scheme prepared and approved 38 years earlier could not be amended by the Director- Not competent-Title could not be decided by the Director- Entries in the revenue record showed the land as Shamilat deh- Title in respect of shamilat deh has to be considered under the Village Common Lands (Reg) Act 1961; **Balkar Singh v. Director, Land Records, Punjab, Jalandhar: 2000(3) ALL INDIA LAND LAWS REPORTER (Pb. & Hry.) 564**

S.42- Petitioner seeks a writ of mandamus directing Director consolidation to make compliance of his order dated 2.4.1975-His grievance is that his applications in that regard have been dismissed-Such applications could not be treated as applications for review for which director is not empowered--As per respondents, property has changed several hands and as such no relief can be granted-Director has rightly declined to interfere with order dated 2.4.1975 as any order passed now would amount to review of his earlier order-Power to review is created by statute which is lacking here-CWP dismissed-Constitution of India-Arts. 226/227; **Kali Ram v. Director, Consolidation of Holding: 2000(3) ALL INDIA LAND LAWS REPORTER (Pb.& Hry.) 332**

S. 42- Punjab Village Common Lands (Regulation) Act 1961, S. 11 -Plaintiffs suit for permanent injunction to restrain Gram Panchayat and Receiver to auction lands by way of lease as the same carved out by the Consolidation Authorities and allotted to them-Recorded in Revenue records as Shamlat deh, Gram Panchayat asserts its title, which could be decided by collector under Ss 11 and 13 of the Common Lands Act- Consolidation Authorities had no jurisdiction-Even if alleged allotment is proved it is illegal not affecting rights of the Gram Panchayat-Held, Plaintiff were entitled to be allotted that much area as they were holding before consolidation proceedings- Area allotted to them was to make up the deficiency in their area-Gram Panchayat had pursued the matter upto Apex Court and has failed-Further held-Gram Panchayat has no jurisdiction to auction the land which has been held to be in ownership of plaintiffs-Possession of land, which is with receiver, is ordered to be delivered to the plaintiffs/respondents; **Gram Panchayat Village Balad Kalan v. Ajmer Singh & anr. : 2000(3) ALL INDIA LAND LAWS REPORTER (Pb. & Hry.) 307**

S. 42- No path provided to the lands of the Committee in consolidation proceedings in 1959- It was necessary that every scheme of consolidation should provide a path-On an application, Joint Secretary after listening to parties and after examination of scheme of consolidation, provided and sanctioned a path which passed through the land of petitioners-Powers of the State Government are wide enough and can be exercised at any time Application by Committee cannot be said to be barred by limitation- As for objection that path passed though the land of petitioners and petitioners object to its use- Petitioners did not object earlier-Writ petition is dismissed; **Daya nand and ors. v. The Joint Secretary Govt. of Haryana and ors. : 2000(3) ALL INDIA LAND LAWS REPORTER (Pb. & Hry.) 45**

S. 42- Under challenge is the order passed by Additional Director consolidation on application under S. 42 on 5.6.1996, allowing partition of shamlat land among the right holders- Consolidation proceedings were completed in the year 1959-No reason has been recorded for entertaining the application after that long and order partition-More so the Asst. Director consolidation had no authority to go into the question whether land in dispute was shamlat deh or not-Orders quashed; **Gram Panchayat, village Mahadian Tehsil and Distt. Fategarh Sahib v. The Additional Director, Consolidation Punjab: 2000(1) ALL INDIA LAND LAWS REPORTER (Pb. & Hry.) 633**

S.42- Consolidation authorities have no right to go into the question of title-Petitioner's application cannot be considered- -Petitioner was a tenant on land in question-Has no right to claim title to the property after expiry of lease Unauthorized occupant-By filing petitions one after the other petitioner is trying to retain possession by oblique methods without paying rent to Gram Panchayat.; **Baldev Singh v. State of Punjab : 1999(2) ALL INDIA LAND LAWS REPORTER (P&H) 269**

S.42- Punjab Village Common Lands Act, 1961-Distribution of Shamlat land in 3 villages- Entries entered in Wazib-UI-Arz- Order of consolidation authorities has been attacked as illegal-Scheme was attached at every stage-Finally in writ jurisdiction High Court ordered decision keeping in view entries in Wazib-UI- Arz-Pursuant to these directions, impugned order came to be passed-Cannot be said without jurisdiction-Also shamlat divided between three villages cannot be said to be a dispute of title- Consolidation authorities could deal with the matter.; **Ram Phal v. State of Haryana : 1999(2) ALL INDIA LAND LAWS REPORTER (P&H) 531**

S.42- Path to the TAK of the petitioner is sought-Consolidation scheme provides for a path to every tak- As for records, a path has not been provided-Provision of a path ordered by Director Consolidation is just-No ground to interfere with these orders in this writ petition; **Bela Ram v. State of Punjab; 1999(1) ALL INDIA LAND LAWS REPORTER (P&H) 274**

S.42- By an application under S.42 petitioner sought a declaration to the effect that he was the owner in possession of the land or it was the Central Government-Gram Panchayat proved on record that petitioner had taken possession of land from Gram Panchayat on lease:- -After lease expired, petitioner could not continue in possession, became an unauthorised occupant Tenant is always a tenant and cannot challenge the title of the owner- Petitioner cannot be allowed to retain possession of the land in dispute-Oblique motive of the petitioner to file petitions one after the other, is to retain possession unauthorisedly without paying rent-Writ petition dismissed with costs; **Baldev Singh v. State of Punjab ; 1999(1) ALL INDIA LAND LAWS REPORTER (P&H) 282 .**

S. 42- Additional Director Consolidation, has allowed claim of respondent 2 for path to his purchased lands-Respondent 2 has given equivalent area of land to petitioner-Having suffered no loss, petitioner has no cause of action; **Joginder Singh v. Addl. Director, Consolidation of Holdings, Punjab; 1998(4) ALL INDIA LAND LAWS REPORTER (Pb. & Hry.) 407**

S.42- Orders of consolidation Officer passed 7 years earlier were set aside on an application by the applicant, as she was not represented in the procedures-Here is the challenge to such orders passed by Asstt. Director, Consolidation-Mother and brother of the applicant were represented in the proceedings before Consolidation Officer-Effective representation-Orders became final-Applicant, one third share-holder, cannot seek reopening of the entire matter after 7 years-Settled issues cannot be unsettled in that matter-Finality is one of the foundation of legal jurisprudence-Matter cannot be reopened- Order of the Asstt. Director, Consolidation are set aside-Civil Procedure Code, 1908-S.11: **Harbans Singh v. Dir., Consolidation of Holdings, Hry. ; 1998(3) ALL INDIA LAND LAWS REPORTER (P&H) 46**

S.42- Water course-KHAL-Not provided during consolidation Application for, under S.42-Held-Application filed by petitioner is not maintainable and authorities have no power to decide and carve out the water course for irrigation of fields of petitioner (Approach to authorities under Northern Indian Canal and Drainage Act, is the remedy).

S.42- Consolidation authorities dismissed application for providing khal from tubewell to the fields-Scheme did not provide for such relief-High Court held application under S.42 was not maintainable for carving out a Khal- As held in 1992(2) ALL INDIA LAND LAWS REPORTER 107, for provision of khal proper course was to approach canal Authorities-Northern India Canal and Drainage Act, 1873; **Kirpal Singh alias Pal Singh v. State of Punjab; 1998(2) ALL INDIA LAND LAWS REPORTER (P&H) 39**

S.42- Punjab Village Common Lands (Regulation) Act, 1961-S.11Co.Qsolidation officer ordered change of mutation from Shamlat deh to holding of proprietors-Question of title-Could be decided by the Revenue Authorities under the Common Lands Act-Order of the Consolidation Authorities as upheld by the High Court is set aside-Matter remanded to Collector; **Gram Panchayat, Vill. Sidh v. Addl. Dire., Consolidation of Holdings, Punjab; 1998(1) ALL INDIA LAND LAWS REPORTER (Supreme Court) 476**

S.42- Consolidations completed in 1955 and a path was provided- Efforts have ever since been to provide to another path instead- Three writ petitions in this regard failed-Applications has been filed by respondent 2 in writ petitions arraying the writ petitions as defendants-Obvious effort to get a collusive orders-Dismissed-Restoration of path sanctioned earlier ordered; **Gurbax Singh (Maj.) v. Additional Dir., Cons. of Holding, Pb ; 1998(1) ALL INDIA LAND LAWS REPORTER (P&H) 258**

Section 42-Gram Panchayat, petitioner seeks issuance of writ, order or direction quashing order passed by Director, Land Records, Punjab exercising powers under Section 42 of Holdings Act and in connected writ Bhagwan Singh and others pray for issuance of appropriate writ to restrain the respondents from auction of the land as the same belongs to Khewatdars of the village-Land in two Khewats has been shown as shamlat deh ever since 1955-During consolidation proceedings two khewats were taken separately and new area allotted-Concededly no objection was raised by proprietors till the Gram Panchayat decided to auction it for income of Gram Panchayat-All that has been stated in the petition under Section 42 of Consolidation Act is that mutation has been wrongly sanctioned in name of Gram Panchayat- This petition under Section 42 was wholly misconceived-Held- Resultantly dispute raised could be appropriately decided under Section 11 of Village Common Lands Act-Writ filed by Gram. Panchayat is allowed, orders passed by Director Consolidation is set aside-Writ petition filed by Bhagwan Singh and others is dismissed-Punjab Village Common Lands (Regulation) Act, 1961- Section 11;**Gram Panchayat, Jalajan v. The Director, Consolidation of Holdings, Punjab: 1998(1) ALL INDIA LAND LAWS REPORTER (P&H) 173**

Section 42- Bachat land--Consolidation Cluthorities, after utilisation of land kept for common purposes, Bachat land as "Jumla Mushtarka Malkan" continued to be mutated as that till 1984-1985, when it was mutated in the name of Gram Panchayat- Director was of the view that Bachat land should be partitioned among proprietors-Here is the claim by Gram Panchayat, based on the mutation of 1984-85-Although the question of limitation is covered by wide range of Section 42 of the Consolidation Act, yet the exact extent of land has not been worked out in a manner which makes things clear-Matter remitted back to Director of Consolidation for reconsideration; **Gram Panchayat, Village Nagla v.Dir. Consolidation of Holdings, Punjab; 1998(1) ALL INDIA LAND LAWS REPORTER (P&H) 156**

Section 42 read with Rule 18 of the RULES- Section 42 gives a power to the Government to call for, inter alia, any scheme prepared or Confirmed to examine the legality or propriety thereof-Partition not objected by the father of respondent 2 sometime in 1956-Respondem 2 had challenged the partition after 40 years under Rule 18-Although Rule: 18 is not attracted, application made after such inordinate delay ought not to have been entertained-Appellant has no locus standi to challenge the order of the Consolidation authorities in a writ petition as the land continued to be in possession of the proprietary body; **Gram Panchayat, Kakran v. Add.Dir. of Consolidation; 1998(1) ALL INDIA LAND LAWS REPORTER (Supreme Court) 435**

Section 42- Scheme providing that Arhchah to be provided for every Kurra-Market Provision for a water course for giving effect to the scheme is valid exercise of power-**1989 (1) ALL INDIA LAND LAWS REPORTER 69**

Section 42- One of the cosharers present before the Additional Director- one co-sharer would represent the body of co-sharers- Order cannot be challenged by other co-sharers on the ground that they were not heard-One of the co-sharers recorded in the jamabandi appearing before the competent authority would bind the other cosharers-**1989(1) ALL INDIA LAND LAWS REPORTER 577.**

Section 42- Review-Additional Director has no power to recall or review his earlier order- Plea that the earlier order is erroneous or unjust is also not a ground for preferring a review- Earlier order alleged to be based on incorrect facts and error due to mistaken view of merits of controversy-Is not a valid ground for review-**1989(1) ALL INDIA LAND LAWS REPORTERS 577.**

-S. 42- Order passed by the Additional Director, at the back of the party, without affording any opportunity to the other side is violative of rules of Natural Justice-Non best in the eyes of law-Under Section 42 Additional Director exercising powers of the State Government had full powers to review such orders. -**1991 (1) ALL INDIA LAND LAWS REPORTER 233.**

-S.42- Petitioner, exclusive owner of the land through which path has been provided to respondent, was not served with a notice-Did not attend-Father of the petitioner, not a coparcener, present in the court, is no reason for not issuing a notice-Order quashed- Case remanded to Consolidation Authorities, **1992(1) ALL INDIA LAND LAWS REPORTER 529.**

-S. 42-Consolidation Officer while seeking to' change the khal from one place to another had gone contrary to the Scheme of Consolidation framed and implemented-Additional Director having restored the khal to its original place had remedied the fault- Any change in water-course could have been only by taking recourse to provision of Northern Indian Canal and Drainage Act. **1992(2) ALL INDIA LAWS REPORTER 107.**

-Ss. 42,54- Partition or repartition of Lands in consolidation proceedingsRevenue authorities have power to determine decide or dispose of-Jurisdiction 'of the civil court cannot be invoked simply because the consolidation officer has wrongly exercised that power-For that purpose remedy would lie to the hierarchy of officers mentioned in the act to rectify any mistake-Order of the Trial Court set aside:-**1992(1) ALL INDIA LAND LAWS REPORTER 54.**

-Section 42- Additional Director has full powers under Section 42 to review an order and pass fresh order-But review order cannot be passed without giving an opportunity of hearing to the opposite party-Such an order would be violative of the principles of Natural Justice-Non best in the eye of law. **1991(1) ALL INDIA LAND LAWS REPORTER 477.**

-Section 42- Order passed without giving an opportunity to the opposite party is a nullity- And no limitation is applicable to the challenge to such an order-**1991 (1) ALL INDIA LAND LAWS REPORTER 477.**

-So 42- Interference by Director Consolidation after about 30 years of Consolidation proceedings and sanctioning of mutation- Challenged-Director can rectify the mistake which crept in at time of consolidation proceedings at ANY TIME-Matters within his jurisdiction-Interference in writ jurisdiction declined -Constitution of India, Article 226-**1992(2) ALL INDIA LAND LAWS REPORTER 220.**

-Section 42- Application to set aside virtually ex parte order of the Additional Director which was passed on an application in which the right holders of the patti were not represented-Set aside the ex parte order, ordered rehearing of the case after interested persons are informed by beat of drum in the village Challenged in the writ petition-Held the order was an ex parte one when the persons interested or affected had neither been impleaded nor heard and further held that this action of the Assistant Director was not a review of his own earlier orders-No merit in the writ petition **1992(2) ALL INDIA LAND LAWS REPORTER 508.**

-S. 42- Co-sharer files petition under S.42 against the path not provided to her holdings in repartition under Section 21 (1)-She was not a cosharer at the time of repartition and had no right to file petition against the same under S.42 **1991(2) ALL INDIA LAND LAWS REPORTER 440.**

-Section 42- Respondent applies for providing a path to his holdings Application filed after 24 years-Rejected twice-Third application,-Director Director Consolidation remanded case to Consolidation Officer-Provided files representation to Director stating that he was kept in dark was purposely not made a party to the case, no hearing was given to him-Admittedly first and second applications were decided in presence of Petitioner's application was rejected by Director-High Court in appeal held it is settled principle of law that opportunity of hearing must be given to a person who is going to be affected by orders-Natural Justice-Case remanded to Director Consolidation and parties directed to appear before him-**1991(2) ALL INDIA LAND LAWS REPORTER 336.**

-Section 42- Limitation Act, 1663-No period of limitation has been provided for petition under Section 42-Repartition not properly conducted objected to after 30 years, is not time barred- Additional Director Consolidation can interfere-**1991 (2) ALL INDIA LAWS REPORTER 568.**

-Section 42- Director Consolidation of Holdings dismissed the application against change in khasra number allotted by a non- speaking order as time barred-No opportunity of hearing given to petitioner"Dismissal of application as time barred without giving reason is improper-Quashed. **1991(2) ALL INDIA LAND LAWS REPORTER 575.**

-Section 42- To make good deficiency of land allotted out of khata belonging to Mushtarka Malkan and other-Notice issued to Gram Panchayat regarding that-Could not serve, the purpose-Was no notice to be proprietors Notice to the proprietors from where khata land was allotted should have been given-Case remanded back to Director-Writ petition allowed. - **1991(2) ALL INDIA LAND LAWS REPORTER 321.**

-Section 42 and 43A- A badi land and Ruri allotted to father of petitioner in 1951 and in continued possession of the allottees- But not entered in revenue records as such-Petitioner applies for correction of record-Rejected by Additional Director C.H. as time barred-Single Bench held NO, C.H. was competent to condone the delay, since he has not done so, there was no justification to issue direction to NO. C.H. in writ jurisdiction for condoning delay-Division Bench held it to be clerical mistake which should have been rectified-No limitation is involved in rectification/correction of clerical mistake-Ordered as such **1991(2) ALL INDIA LAND LAWS REPORTER 110.**

-Sections 42,18,23-A and 2(bb)- During consolidation prorata cut imposed on different land owners later the Add Director ordered restoration of land on complaint by one of the Respondents that land was not being used for common purpose-Order challenged by tenants who alleged that no restoration could be ordered without notice to them-Notice of this application was given to Panchayat, Sarpanch appeared with Counsel-Tenants contention that they were tenants of Central Government could not be proved-Possession and title of Gram Panchayat also not established-Land was under illegal cultivation by tenants- Land not being used for common purpose- Facts regarding Gram Panchayat supported by documents. No merit in the writ petition which is dismissed with costs. **1992(2) ALL INDIA LAND LAWS REPORTER 338.**

Section 42- Consolidation- Measuring of land-Deficiency in- Allotment of equal shares sought as compensation-Held-Petitioner entitled to relief sought because land demanded in either of villages has a common registered sale deed-Directions given accordingly; **Surat Singh v. Additional Director and others: 2004(1) Land L.R. (Pb.& Hry.) 308**

Section 42- Ex-parte order-Affected party to the decreed suit- Held, It is always open to challenge at any. stage before the same authority.; **Nachhatter Singh v; State of Punjab: 2004 (1) Land L.R. (Pb.& Hry.) 322**

Section 42- Locus Standi- -Impugned order passed with the consent of both the parties-Held, Petitioner has no locus standi to challenge that order.; **Nachhatter Singh v. State of Punjab: 2004(1) Land L.R. (Pb.& Hry.) 322**

Section 42- Consolidation-Alignment of path-Locus standi .to challenge-Held-As interested persons as referred to in Section 42 of the Act are landowners, tenant or mortgagee. in possession- Respondents No. 2 was not an interested person and consequently had no locus standi to file petition under Section 42 of the Act.; **Dalbara Singh and others v. The Additional Director, Consolidation of Holdings, Punjab, Jullundur and another: 2004(2) Land L.R. (Pb. & Hry.) 41.**

Section 42- Natural Justice- Opportunity of being heard--Path provided to the tak of respondent in the absence of petitioner- Held-Service of notice, not proved on record-Impugned order was passed without giving opportunity of being heard to petitioner, therefore same is liable to be quashed only on that ground.; **Bachittar Singh and others v. Additional Director Consolidation of Holdings Punjab and another: 2004(2) Land L.R. (Pb. & Hry.) 448**

Section 42- Alignment of path-Delay of 30 years in filing of petition - No explanation given for delay-Petition time barred, and hence not maintainable.; **Dalbara Singh and Another v. The Additional, Director, Consolidation of Holdings, Punjab, Jullundur and Another: 2004(3) Land L.R. (Pb. & Hry.) 64**

Section 42- Interested person-Locus standi-Held, interested persons as referred to in Section 42 of the Act are landowners, tenant or mortgagee in possession.; **Dalbara Singh and Another v. The Additional, Director, Consolidation of Holdings, Punjab, Jullundur and Another : 2004(3) Land L.R. (Pb. & Hry.) 64**

Section 42- Shamilat Deh- Bachat Land-In lieu of cultivable land, land from bachat land was ordered to be allotted-But Bachat Land now forms the part of shamlat deh, which could not be allotted without giving alternate land or equivalent value to the Gram Panchayat.; **Gram Panchayat, Keharoo v. Additional Director, Consolidation of Holdings, Punjab & Another : 2004(3) Land L.R. (Pb. & Hry.) 71**

Section 42- Limitation-Delay of 16 years, in filing petition u/S. 42 of the Act, -is fatal for the claim-Relying on **1998(1) ALL INDIA LAND LAWS REPORTER 435** case remanded back to decide the issue of maintainability of the petition and adjudicate fresh.; **Yoginder Paul Sharma and others v, Additional Director, Consolidation of Holdings, Punjab & Others : 2004(3) Land L.R. (Pb. & Hry.) 370**

Section 42- Limitation- After three decades of finalising consolidation, petition u/s. 42 filed- Allowed by Addl. Director consolidation without considering the matter of delay-Impugned order suffers from error of law-Order set aside-**1998 (1) ALL INDIA LAND LAWS REPORTER, 465** relied upon; **Gram Panchayat of Village Ban Bhaura v. Additional Director, C/H, Punjab, Chandigarh & Ors. : 2004(3) Land L.R. (Pb. & Hry.) 364**

Section 42- Exparte Order-Setting aside of-Contention summons not received-Application dismissed without assigning any cogent evidence and without calling record- -Violations of principles of natural justice-Impugned order set aside-Ex parte order set aside; **Gram Panchayat of Village Issi, Tehsil Dhuri, District Sangrur v. Director, Consolidation of Holdings, Punjab, and Others: 2004(3) Land L.R. (Pb. & Hry.) 431**

Section 42- East Punjab Holding (Consolidation and Prevention of Fragmentation) Rules, 1949-Rule 18-Constitution of India, Article 226-What is challenged by this writ petition is correction of the mistake on the part of officials of the consolidation department and that after delay of 37 years-In consolidation, a small piece of land in, khasra No. 834, with changed khasra No.98//15/1 belonging to respondent was allotted to the petitioners-On application by Respondent No.2, Respondent No. 1 ordered correction, that also after 37 years and further ordered any deficiency if caused to respondent 2 may be made good out of Jumla Mushtarka Malkan-No jurisdictional error in the impugned order passed by Respondent NO.'1 is found- Respondent 1 has the jurisdiction under Section 42 to correct the mistakes committed during consolidation Inordinate delay of 37 years is covered by apex Court judgment [**1990(1) ALL INDIA LAND LAWS REPORTER 260**-Rule 18 to the Rules provides limitation only to petitions filed against orders passed under the Act- Correction order passed by Respondent 1 is a just and reasonable order, even though after 37 years, calls for no interference.]; **Prem Chand (deceased) through his legal heirs v. Additional Director Consolidation, Punjab and Ors. : 2004(3) Land L.R. (Pb. & Hry.) 600**

Sections 42 and 20-Delay and Laches- - Question to be decided is if an application for revision of scheme for realignment of path, could be entertained and allowed after a lapse of 19 years, after the scheme was finalized or completion of consolidation proceedings-Answer is Emphatic- No explanation or affidavit has been filed to justify the inordinate delay-Any application from subsequent vendee, once the repartition scheme -had been framed and already implemented in 1964-65 should have been entertained by Respondent 1- This was not legally permissible under the provisions of the Act- Realignment could not have been ordered on account of Civil Court decree-Orders passed in this connection are set aside.; **Ajit Singh and others v. Additional Director, Consolidation of Holdings, Punjab & anr : 2004(3) Land L.R. (Pb. & Hry.) 531**

Sections 42 and 21- Delay and Laches- -Partition-Repartition- Limitation-Held, Even where no period of limitation is prescribed, the party aggrieved is required to move the appropriate authority for relief within a reasonable time- Application after 16 years of unexplained delay, cannot be considered to be within reasonable time.; **Yoginder Paul Sharma and others v. Additional Director, Consolidation of Holdings, Punjab Jullundur and others : 2004(3) Land L.R. (Pb. & Hry.) 635**

Section 42- What is challenged in this C.W.P. is if the Additional Director consolidation could review an order passed by his predecessor-After review the common pool land was ordered to be redistributed among share holders-On coming up for hearing parties request for a remand of the case for fresh adjudication- And for passing a speaking order-Thus ordered.; **Dr. Chander Mohan and others v. Additional Director, Co .solidation of Holdings, Punjab & others: 2005(1) Land L.R. (Pb. & Hry.) 182**

Section 42- Review- Power of- Additional Director does not have the power to review- Reasons are to be recorded for dismissal of an application under Section 42 by Addl. Director or the ground that it was time barred-Case remanded.; **Ram Kishan & Am. v. Additional Director, Consolidation of Holdings, Punjab & Ors. : 2005(1) Land L.R. (Pb. & Hry.) 502**

Section 42- Constitution of India, Articles 226/227-Passage connecting land of respondent no. 2 to metalled road- Petitioner's contention is that ~here existed a passage and provision of second passage was not justified -In the written statement, respondent 2 has specifically denied the existence of the path earlier- This question thus becomes a disputed question of fact which cannot be answered by High Court in its writ jurisdiction.; **Ganda Singh v. Director of Consolidation and Holding Punjab and anr. : 2005(2) Land L.R. (Pb. & Hry.) 222**

Section 42- Second contention raised about surrendering land equal to the land being used for passage-Respondent 2 and his brother were joint holders of the khata to which passage is now sought-In an earlier application, brother of respondent 2 refused to surrender land equal to the land being taken from the petitioner-Brother of respondent 2 refused to surrender that much land and wanted such land to be taken from Gram Panchayat- On such a contention, application of the brother of the respondent 2 was declined-That being this case it could not be reopened.; **Ganda Singh v. Director of Consolidation and Holding Punjab and anr. : 2005(2) land L.R. (Pb. & Hry.) 222.**

Section 42- Third is the question if consolidation authorities could entertain the claim of the respondent 2 after a passage of 18 years-Since it was an oversight on the part of consolidation authorities, the competent and could correct the mistake committed' by him, any time-Thus the order passed on 8 suffered from no infirmity.; **Ganda Singh v. Director of Consolidation - and Holding Punjab and anr. : 2005(2) land L.R. (Pb. & Hry.) 222**

Section 42- Powers and Jurisdiction of authorities-Question of title Impleadment of necessary parties--Held;

1. After proceedings came to an end Revenue authorities have no power to review its earlier order as the powers are quasi judicial in nature.
2. Co-sharer is not entitle to file successive applications.
3. Authorities are not competent to go into the question of title amongst the cosharers.
4. Service upon one of the co-sharers is sufficient for adjudicating the dispute under the Act.
5. Party who is concealing a materlal fact is not entitle to any relief; **Rachhpal Singh and another v. The Additional Director, Consolidation of Holdings, Punjab, Chandigarh and others: 2005(2) land L.R. (Pb. & Hry.) 91**

Section 42- Delay and latches- Application filed after a long delay of 14 years, without any explanation is liable to be rejected. **Rachhpal Singh and another v. The Additional Director, Consolidation of Holdings, Punjab, Chandigarh and others: 2005(2) land L.R. (Pb. & Hry.) 91**

Section 42- Constitution of India 1950, Articles 226, 227Jurisdiction-Concealment of facts-Review of earlier order- Held, Authorities passing order on third application filed by the Co-sharer, who concealed the factum of filing the similar applications, virtually reviewing its earlier order, not permissible under the Act-Authorities acted beyond jurisdiction; by concealing a material fact respondent is not entitled to any relief.; **Rachhpal Singh and another v. The Additional Director, Consolidation of Holdings, Punjab, Chandigarh and others: 2005(2) land L.R. (Pb. & Hry.) 91**

Section 42- Consolidation of land holdings- Plain and hilly area- Consolidation took place only in plain area-No change was made in hilly area-Held, demand cannot now be raised for providing path to hilly area.; **Punnu Ram and another v. The Additional Director, Consolidation of Holdings, Punjab and others: 2005(2) land L.R. (Pb. & Hry.) 378**

Section 42- Constitution of India-Articles 226 and 227-Ex-parte Order-Non-service of notice-Process server reported that majority of petitioner were no present in village-Exparte order passed after one day of service of process-Held, Impugned order quashed on violation of rule of audi alteram partem.; **Atma Singh and others v. Additional Director. Consolidation of Holdings, Punjab, Chandigarh and others: 2005(2) land L.R. (Pb. & Hry.) 315**

Section 42- East Punjab Holdings (Consolidation and Prevention of Fragmentation) Rules, 1949" Rule 18-Limitation-Director's powers to interfere-Held, there is no limitation for exercising the powers of the State Government-Held, Section 42 provides that any order passed under the Act can be reversed or modified at any time.; **Punnu Ram and another v. The Additional Director, Consolidation of Holdings, Punjab and others 2005(2) land L.R.(Pb. & Hry.) 378 .**

Section 42- Punjab Village Common Lands (Regulation) Act 1961, Section 11-Partition of Shamlat Land- Director of Land Records, exercising powers under Section 42 of the Act of 1948, directing partition of Shamlat Land which has been wrongly allotted the Gram Panchayat by making an excessive cut in the land holdings of the proprietors-Order was upheld upto the Hon'ble Supreme Court-. Contention that the director had no jurisdiction under Section 42 of the

Act to decide as to whether the land vested in the Gram Panchayat or not hence the Order is void-Contention have no merit-Held, Hon'ble Supreme Court has not only considered on the basis of the provisions of the consolidation but also on the anvil of Punjab Village Common Lands (Regulation) Act-Writ Dismissed. **Gram Panchayat of village Sudhewal v. Director Panchayats Punjab, Chandigarh and others: 2005(2) land L.R. (Pb. & Hry.) (DB) 565**

Section 42- Punjab Village Common Lands (Regulation) Act 1961, Section 11-Partition of Shamlat Land- Director of Land Records, exercising powers under Section 42 of the Act of 1948, directing partition of Shamlat Land which has been wrongly allotted the Gram Panchayat by making an excessive cut in the land holdings of the proprietors-Order was upheld upto the Hon'ble Supreme Court- - Contention that the director had no jurisdiction under Section 42 of the Act to decide as to whether the land vested in the Gram Panchayat or not hence the Order is void-Contention have no merit-Held, Hon'ble Supreme Court has not only considered on the basis of the provisions of the consolidation but also on the anvil of Punjab Village Common Lands (Regulation) Act-Writ Dismissed. **Gram Panchayat of village Sudhewal v. Director Panchayats Punjab, Chandigarh and others: 2005(2) land L.R. (Pb. & Hry.) (DB) 565**

Section 42- Consolidation of Holdings in the year 1953-54-which is now 50 years-Petitioners in possession of the holdings despite lot of developments in their new blocks- Held, In the interest of justice possession should not be changed after such a long period; **Satnam Singh v. State of Punjab and Others: 2005(2) land L.R. (Pb. & Hry.) 728.**

Section 42- East Punjab Holdings (Consolidation and Prevention of Fragmentation) Rules, 1949-Rule 18-Drain dugged through fields- -Land consolidated in one Tak bifurcated in two parts; and amounted repartition of land after its allotment-Limitation period under Section 18 cannot be made applicable-Held, Bar of Limitation does not apply to those petitions under Section 42 in which legality or validity of a scheme prepared or confirmed or repartition is challenged.; **Gram Panchayat Village Gujjarpur Tehsil Nawanshahr v. State of Punjab and others : 2005(3) land L.R. (Pb. & Hry.) 204**

Section 42- Exchange of Land-Approval of Government-No agreement between Gram Panchayat and petitioner-Application for getting their land consolidated on one side of drain dug by Dr 3ainage Department Additional Director allowed application after hearing Gram Panchayat- No need for approval from the Government.; **Gram Panchayat Village Gujjarpur Tehsil Nawanshahr v. State of Punjab and others : 2005(3) land L.R. (Pb. & Hry.) 204**

Section 42- Punjab Land Revenue Act, 1887-Section 42-Claim for exclusive ownership-Civil Court and Revenue Court held in earlier suits that plaintiffs were not exclusive owner of suit land-Revenue authority allowed the claim-Held, Revenue authority has no jurisdiction to ignore findings of competent Civil court and Revenue Court and decide to contrary-Powers under Section 42 are limited and can be exercised only if there exists some defect in effecting the repartition and not otherwise; **Piara Singh v. Additional Director, Consolidation of Holdings, Punjab and others : 2005(3) land L.R. (Pb. & Hry.) 79**

Section 42- Claim for ownership-Delay and Latches-Application before revenue authority after more than twenty years, without any sufficient explanation for, delay-Application moved after period of limitation, not maintainable.; **Piara Singh v. Additional Director, Consolidation of Holdings, Punjab and others : 2005(3) land L.R. (Pb. & Hry.) 79**

43. Appeal and Revision, - Except as provided in this Act no appeal of revision shall lie from any order passed under this Act.

COMMENTARY

Section 43- Consolidation--: Correction of Mistake-It shall be made out from Section 43 of the Act of 1948, that a clerical or arithmetical mistake in a scheme made or an order passed by any officer, under the Act arising from any accidental slip or omission can be corrected at any time by the authority concerned either of its own motion or on the application of any of the parties; **Mansa Ram v. State of Haryana : 2002(3) All INDIA LAND LAWS REPORTER (Pb.& Hry.) (DB). 738**

¹[**43A. Correction of clerical errors. -**Clerical or arithmetical mistake in a scheme made or an order passed by any officer, under this Act arising from any accidental slip or omission may at any time be corrected by the authority concerned either of its own motion or on the application of any of the parties].

COMMENTARY

Section 43A- Taking it to be clerical or arithmetical mistake, the Consolidation Officer made good the deficient area out of the land belonging to Gram Panchayat-Gram Panchayat had already obtained an order from Assistant Collector under Section 7 of Punjab Village Common Lands (Regulation) Act 1961 against the writ petitioners-After this order Consolidation Officer had no jurisdiction to pass an order under Section 43A of the Act as it was neither a case of deficiency nor Arithmetical mistake-Earlier order of making good the deficiency was not binding on the Gram Panchayat as it was not a party represented in the list-Letters Patent Appeal accepted, setting aside the order of the Single Judge as well as writ petition-1920(1) **ALL INDIA LAND LAWS REPORTER 61.**

Section 43-A- Constitution. of India-Articles 226 and 227Consolidation proceedings-Clerical mistake-Wrong entry of killa, in other's name-Rectification after consolidation 25 years-Held, Director is fully empowered under Section 43-A of Act to make correction of clerical errors at any time on an application by parties or otherwise-Petition dismissed.; **Jati Singh v. Additional Director, Consolidation of Holdings, Punjab and others : 2005(2) Land L.R. (Pb. & Hry.) 314**

44. Jurisdiction of Civil Court barred as regards matters arising under Act-No civil court shall entertain any suit instituted on application made, to obtain a decision or order in respect of any matter which the State Government or any office is, by this Act. empowered to determine, decide or dispose of.

COMMENTARY

S. 44- Jurisdiction On allegations that revenue authorities have acted in excess of jurisdiction vested in them or acted illegally in contravention of some mandatory provisions, the jurisdiction of the civil court can certainly be invoked. But jurisdiction of civil court will not spring up simply on the allegation that revenue authorities have not exercised a power vested in them in a particular manner. 1992 (1) All India Land Laws Reporter 54.

Civil court has no jurisdiction to look into the legality of an order passed under section 18 of the Punjab Law- A civil court has no jurisdiction to pass an order challenging the legality of an order passed by the revenue officer on the purchase application made by a tenant. Nor can a civil court pass an order questioning an order passed in favour of an ejected tenant who is settled on surplus area. If any of the parties is aggrieved by an order passed by a revenue officer it is open to the aggrieved party to approach the higher Revenue Tribunals constituted under the Act. Ram Chander v. Dalu,- 1983(1) All India Land Laws Reporter 153.

45. Public servants indemnified for acts done under this Act- No suit or other legal proceedings shall be maintained in respect of the exercise of any power or discretion conferred by this Act, or against any public servant or person duly appointed or authorised under this Act; in respect of anything in good faith done or purporting to be done under the provisions thereof or the rules made thereunder.

46. Rules. (1) The ¹[State] Government may by notification make rules for carrying out the purpose of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, the [State] Government may make rules providing for

(a) the manner of publication under sub-section (2) of section 4, subsection (1) of section 14, ²[-] section 19, sub section (4) of section 20 and subsection (1) of section 21 :

(b) the manner of giving public notice under sub-section (3) of section 5;

(c) the manner of giving notice under sub-section(2) of section 6 ;

(d) the procedure to be followed in the preparation. of the scheme -under sub-section 14; .

(e) the manner in which the area is to be reversed under section 18 and the manner in which it is to be dealt with and also the manner in which the village abadi is to be given to proprietors and non-proprietors (including scheduled castes, Sikh backward classes, artisans and labourers) on payment of compensation or otherwise;

f) the manner in which compensation recoverable from any person under sub-section (3) of section 23 shall be deposited by him.

³[(ff) the fees to be paid in respect of appeals and applications made under this Act, the documents which accompany such appeals and applications and the period within which applications shall be filed;]

(g) the guidance of the Consolidation Officer in respect of the transfer of a lease, mortgage or other encumbrance under section 26:

(h) the manner in which the area of assessment (including water rate, if any) of each reconstituted holding and tenancy shall be determined

(i) the appointment of guardians ad item for minors.

j) generally for the guidance of the Consolidation Officer and other officers and persons in all proceedings, under this Act; and

(k) any other matter which is to be or may be prescribed.

(3) All rules made under this section shall be subject to the condition of previous publication,

COMMENTARY

Where application for providing path was made beyond the period of limitation and no cause was shown in the application seeking condonation of

1 Sub For the word "Provilcial" by the Adaptation of Laws Order, 1950.
2 The words "sub se-tions(1 j -nd (2) of' omitted by Act 25 of 1961, S.1 O.
3 New Clause (ff) inserted by Punjab Act 20 of 1959, S.J.

delay it was held that the condonation of delay was on extraneous grounds and it could not be sustained. 1976 PLJ 317.

47. Repeal.- The enactments mentioned in the schedule are hereby repealed.

THE SCHEDULE

(See Section 47)

Enactments Repealed

Year	No	Short title
1936	IV	The Punjab Consolidation of Holdings Act, 1936
1940	IX	The Punjab Consolidation of Holdings (Amendment) Act, 1940.
1945	II	The Punjab Consolidation of Holdings (Amendment) Act, 1945.

**The East Punjab Holdings
(Consolidation & Prevention of Fragmentation) Rules, 1949**

(As Applicable to Haryana also)

1. **Title** - These rules may be called the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Rules, 1949.

2. **Definition.** - In these rules-

(a) "Act" means the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1949, and

(b) "Section" means a section of the said Act.

3. **Mode of Publication.** Any matter required to be published, or of which public notice is to be given, under the Act shall be published by exhibiting copies thereof in the estate or estate concerned [and at a conspicuous place in the village or villages concerned as well as at the Panchayat Ghar of the Panchayat in which village or villages lie-for Pb.] in Urdu, Hindi, or ²[Punjabi] as may be deemed proper, and shall also so far as possible be announced in such estate or estates by beat of drum. .

3[4. Preparation of scheme of Consolidation. -After the notification and publication by the State Government, of its intention to make a scheme for the Consolidation of Holdings under sub-section (1) of section 14, the Consolidation Officer shall visit each of the estates concerned after giving reasonable notice of his visit to the landowners and non-proprietors thereof and shall in consultation with the village committee constituted by him for this purpose, put up a scheme for the consolidation of holdings. The total number of members of the said committee shall not be less than three and it shall include: -

(i) members of the Gram Panchayat, if any constituted under the Punjab Gram Panchayat Act, 1952 (No.IV of 1953) and representatives of landowners.

(ii) a representative each of Harijans and other non- proprietors if not already included in the Panchayat:

(iii) a representative each of the Co-operative Farming Societies, if any],

5. Every such scheme of consolidation shall contain the following particulars. -

(i) a statement of classification of land for the purpose of consolidation and the exchange ratio for conversion of one class into another;

1. Words added vide G.S.K. 1\;0: I dated 7-1.1969

2. Substituted for "Gurmukhi" vide G.S.R. No 11 dated 7-1-1969.

3. Substituted vide Punjab Govt. Notification No. 6992-D (IX)-60/5570, dated 21 September 1960.

(ii) a statement of valuation of lands, wells, trees, etc., to be exchanged showing the compensation to be given or received by the holders concerned;

(iii) a brief statement as to the action, if any, taken in pursuance of section 17 and 18 of the Act; and

(iv) Such other particulars as may be considered expedient by the Settlement Officer in his behalf.

[6. **Draft scheme of consolidation to be explained to the persons affected thereby-** In addition to publication under the provisions of rule 4 the draft scheme of consolidation shall be read over and explained by the Consolidation Officer to the persons likely to be affected thereby~ specially collected for the purpose. If any person desires to have a copy of the proposed consolidation scheme, it shall be supplied to him on payment of the following copying fee: -

One rupee for the first two hundred words or less and fifty paise for every additional 100 words or fraction thereof;

Provided that a copy of consolidation scheme may be supplied on request to the Gram Panchayat concerned free of cost.]

7. Repartition. The consolidation Officer shall after obtaining the advice of the landowners of the estate concerned, carry out repartition in accordance with the scheme of consolidation of holdings confirmed under section 20, and shall prepare the following repartition papers: -

(i) a map of village showing all the exiting field numbers, recognized roads, and irrigation channels and areas assigned for public purposes, such as burial grounds, disposal of animal carcasses, ponds of grazing areas, etc., with new field numbers superimposed upon, in red lines or other marking;

(ii) another similar village map exhibiting the position emerging as a result of repartition;

(iii) a statement showing the names of the owners of holdings, with particulars of field numbers, shares, class of land, tenure, area, assessment and encumbrances, if any, after getting the record -of rights up-to-date :

(iv) a statement show the name of owners with particulars of all different rights possessed by each individually;

(v) a statement showing the compensation payable by or to an owner in order to adjust difference in the value of land exchanged under section 15 of the Act or due to the existence of wells, trees, etc., under sub-section (4) of section 17;

(vi) a statement showing the names of occupants or holders to whom the new consolidated holdings, are allotted with particulars of field number, shares, class of land, tenure area, assessment and encumbrances if any; ,and

(vii) such other papers as may be considered expedient by, the Settlement Officer (Consolidation) in this behalf

8. Repartition, paper to the explained to the person affected thereby- The contents to the statements mentioned in items (iv) to (vii) of the preceding rule shall be read over and explained by the Consolidation Officer to the persons likely to be affected thereby specially collected for the purpose.

9. Redistribution of assessment- After repartition has been confirmed and appeal against it, if any has been finally decided, the Collector of the district shall take necessary, steps for the redistribution of the assessment of the Punjab Land Revenue Act, 1887.

10. Eviction- The Consolidation Officer shall serve a notice on the person or persons liable to eviction under sub-section (2) of section 23 requiring him within fifteen days of the receipt of the notice to vacate the land, If such notice is not complied with within the time specified therein, the Consolidation Officer may exercise the powers of a Revenue Officer under the Punjab Land Revenue Act, 1887, for the purpose and putting in physical possession of the holding the person, entitled thereto

11. Deposit of compensation- The amount of compensation payable by an owner under section 15 of the Act shall be deposited by him in the nearest Government treasury or sub-treasury, and a copy of the receipt obtained by him intoken of credit shall be produced by him before the Consolidation Officer.

12. Transfer of encumbrance: - In transferring a lease, mortgage, debt or other encumbrance under sub-section (1) of section 26, the Consolidation Officer shall-

(i) if the new holding is of the Same market value as the original one transfer to the entire encumbrance attaching to the latter :

(ii) if the new holding is of substantially greater market value than the original one, transfer to the former holding the encumbrance attaching to the latter, subject, in the case of a lease to the condition that the lessee shall pay to the owner such reasonable rent in excess of the rent already payable under the lease as may be fixed by the Consolidation Officer and in the case of any other encumbrance, subject to such reasonable reduction in the area or in the rate of interest as may be fixed by the Consolidation Officer, having regard to the substantially better security provided by the owner of the new holding,

13. Putting the encumbrancer in possession.- If the lessee, mortgagee or other encumbrancer appears to the Consolidation Officer to be entitled to the possession of a holding under section 26, Consolidation Officer shall issue a notice to the owner to show cause within fifteen days of the receipt of, the notice why the lessee, mortgagee or other encumbrancer, as the case may be, should not be put in possession of such holding, If the owner fails to show cause or if the Consolidation Officer is satisfied that the cause shown by the owner is not adequate, he shall put, the lessee, mortgage or other encumbrancer as the case may be, into possession of the hording and the record of rights in respect of the holding shall be corrected accordingly.

¹14. **Assessment, Collection Refund etc., of cost of Consolidation-**

²(1) The cost of consolidation proceedings shall be assessed (3) ³[village wise] at Rs. 5 per acre or portion of an acre of land; other than ghair mumkin land, if the wattbandi is carried out by the persons, whose holdings are affected and at Rs. 7-8.0 per acre if the wattbandi is carried out by or on behalf of the Consolidation Officer, at the option or default of the persons whose holdings are affected.]

(ii) The cost of consolidation shall be payable by the persons whose holding are affected by the scheme of consolidation except that in case of evacuee land, it shall be payable by an allottee in respect of land, which has been allotted to him on a quasi permanent basis and the Custodian in the case of unallotted lands.

⁴(iii) The cost of consolidation shall be collected in two half- yearly instalments alongwith the land revenue demand far Kharif and Rabi harvests ⁵[except when the Government directs. otherwise by written order to collect this in more than two half yearly instalments in hard and deserving cases.]. After a notification under section 14(1) of the Act has been issued the patwaris shall prepare in farm CHI, a list of assesseees from whom the cost of consolidation is to be recovered. This list will be arranged lambardarwise]

(iv) All entries the list mentioned in sub-rule (iii) above shall be checked by the Girdawar Kanungo and read over and explained to the persons, whose holdings are affected by the scheme of consolidation. The Assistant Consolidation Officer shall check the entries in the list and the list duly signed on every page by the Patwari-Girdawar, Kanungo. and the Assistant Consolidation Officer in token of its correctness shall be forwarded to the Consolidation Officer, who., after countersigning it, shall return it to the Patwari after the Wasil Baqi Nawis has noted the consolidated demand in a register [in such form as may be prescribed by Government from time to time]. The Patwari shall copy cut the list lambardar-wise and deliver the relevant papers to the lambardars concerned for collection. .

(v) Before the second instalment falls due the village Patwari, shall immediately, ⁶after the preparation of a preliminary record of the village particularly the Naqsa Haqdarwar draw up the list of 2nd instalment of ease of

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- 1 Rule 14 substituted vide Punjab Government Notification No. 838-0-52/1757,dated 29th April 1952/9th May 1952.
 - 2 Substituted by Punjab Government Notification No.5 146-0 (11)-58/] 1/1640, dated the 10 12.1958.
 - 3 The word "village-wise" inserted vide Punjab Government Notification No.2655-D(IX)-50-2284, dated the 22nd April, 1966.
 - 4 Inserted vide Punjab Government Notification No. 4655-D-53/dated the 6.5.1953.
 - 5 Inserted vide Punjab Government Notification No. 4655-D-53/dated the 6.5.1953
 - 6 Substituted vide Punjab Government Notification No. GSR 184/PA 50/48/S-46/Amd. 91)/63,dted the 16.5.1963.

consolidation incorporating the changes. if any, in the first list of the cost of consolidation payable by the persons, whose holdings are affected by the scheme of consolidation. This list shall also be prepared, checked and authenticated and disposed of as laid down in sub-rule (iv) above.

(vi) The excess cost of consolidation recovered from a person whose holdings are affected by the scheme of consolidation shall be refunded under orders of the Settlement Officer to whom an application may be made for the purpose through the Patwari of the village who shall, forward it through the proper channel after verification and report. The refund, however, shall, be prepared in the office of the Settlement Office of the Settlement Officer and to the applicant through the Girdawar Kanungo who shall obtain a receipt for it and return it to the Settlement Officer for record: "

(vii) The demand on account of cost of the consolidation will be due as soon as the list is in the hands of the lambardars ¹[-] entrusted with the collection and must be paid into the treasury not later than the (3) the dates mentioned under column 2 and 3 of the table given below in respect of the areas mentioned under column 1 of the said table, namely: -

TABLE

1	2	3
Area	Kharif date	Rabi date
Ambala and Hissar Division	3th January	30th June
Patiala	30th January	30th June
Jullandar	1st February	15th February

After the above dates process may be issued for recovery of arrears in the same way as for arrears of land revenue.

²[(viii) The allowance to the lambardars and other person collecting the cost of consolidation, shall be two percent of the amount collected. Unless otherwise, expressly ordered by Government at lambardar or other person concerned while depositing the cost of consolidation into the treasury, shall be entitled to retain the allowance due to him and deposit the balance into the treasury. The allowance will be conditional on the demand being paid in full for each estate by the date fixed in sub-rule (vii). The Collector of the district may deduct any sum out of the allowance for delay in payment of the demand into the treasury: In case full amount recovered is deposited in the treasury by the lambardar or other person without retaining the allowance due to him the Collector of the district may refund such amount of allowance to the person concerned to which he is entitled. The Collector may also recover, as arrears of land revenue, the amount of allowance with held in excess, if any, by lambardars or other person entrusted with the. collection of cost of consolidation while depositing it into the treasury, without fulfilling conditions set out above:] and.

1 Substituted vide GSR R.II dated 7.1.1969
2 Substituted vide GSR II dated 7.1.1969.

(ix) A monthly return ¹[in such form as may be prescribed by Government from time to time] shall be forwarded by the Collector to the Commissioner of the Division with a copy of it to the Director, Consolidation of Holdings, by the seventh of the month following that to which it relates. In this return, shall be entered the demand for the harvest, arrears (if any) and payment received during the month.

15. Appointment of guardians to minors- Where any of the land owners is a minor, the Consolidation Officer may after making such enquiries as may be necessary and by an order in writing, appoint a suitable person whose interest is not adverse to that of the minor as guardian ad litem. Similar action may be taken .in the case of widows, absentees, soldiers or others, if considered necessary.

²**16 (i)** The area to be reserved for the common purpose of extension of abadi for proprietors and non-proprietors under S.18(c) of the Act shall be reserved after scrutinizing, the demand of proprietors desirous of building houses and of non- proprietors including. Harijan. families working as agrarian labourer who are in need of a site for house. The-land reserved for extension of abadi shall be divided into plots of suitable sizes. For the plots allotted to proprietors non-proprietors including Harijan families these shall be allotted without payment of compensation and they shall be deemed to be full owners of the plots allotted to them.].

³(ii) In an estate or estates where during consolidation proceedings there is no shamlat deh land or such land is considered inadequate, land shall be reserved for the village Panchayat and for other common purposes, under section 18(c) of the Act, out of the common pool of the village at the scale prescribed by the Government from time to time ⁴[at the scale given in the schedule to these rules-FOR Pb.] Proprietary rights in respect of land so reserved (except the area reserved for the extension of abadi of proprietors and non-proprietors) shall vest in the proprietary body of the estate or estates concerned and it shall be entered in the column of ownership of record of rights as (Jumla Malkan Wa Digar Haqdarani Arazi Hassab Rasad Raqba). The management of such land shall be done by the Panchayat of the estate or estates concerned on behalf of the village proprietary body and the Panchayat shall have the right to utilise the income derived from the land so reserved for the common needs and the benefits of the estates concerned].

⁵**17. Form of application and documents which shall accompany it-** Every application under section 42 shall be signed and verified by the applicant, shall., contain the following particulars and shall be accompanied by a certified copy each of the orders ,if any, passed under

-
1. Substituted vide Punjab Government Notification No: GSR No. 184/PA
 2. 50/48/S.46/Amd. (1)/63, dated the 16.5.1963.
 3. Punjab Government Notification GSR 11,dated 7.1.1969
 4. Existing rule 16 renumbered as sub-rule (i) of that rule and new sub rule (ii)
 5. New Sub-rules 17,18 and 19 inserted by Punjab Notification No.1426-D(II-60/1527, dated the 18.3.1960.

copy each of the orders, if any, passed under sub-section (2), (3) and (4) of section 21, a rough plan of the path or paths, if any, in dispute and a certified copy of the grounds of the last appeal, if any, filed under sub section (3) or subsection (4) of section 21:-

- (a) name of the authority to whom applications is made
- (b) name and description of 'place of residence, tehsil and district of the applicant.
- (c) names, description and addresses, of the persons, who are likely to be affected, if the application is accepted;
- (d) names of the village, tehsil and district, in which the land which is subject, matter of the application is situated ;
- (e) the date of publication of the repartition shajra under sub- section (1) of Section 21 of the Act, if it is known to the applicant ;
- {f} whether any object was lodged with Consolidation officer
- (g) Whether any appeal was preferred under sub-section (3) and under sub-section (4) of section 21 and, if so with what result. ,
- (h) whether any application was previously filed under section 42 of the Act and, if so, with what -result ;
- (i) a statement of fact in concise form on which the party applying relies and
- (j) relief prayed for.

¹ **[18. Limitation for application under section 42.** - An application under section 42 shall be made within six, months of the date of the order against which it is filed:

Provided that in computing the period of limitation, the time spent in obtaining certified copies of the orders and the grounds, of appeal, if any, filed under sub-section (3) or sub section (4) of section 21, required to accompany the application shall be excluded:

Provided further, that an application may be admitted after the period of limitation prescribed therefor if the applicant satisfies the authority competent to, take action under section. 42 that he had sufficient cause for not making the application within such period)] .

Rule 18- East Punjab Holding (Consolidation & Prevention of Fragmentation) Act, 1948-Section 42-Constitution of India, Article 226-What is challenged by this writ petition is correction of the mistake on the part of officials of the consolidation department and that after delay of 37 years-'In consolidation'; a small piece of land in Khasra No. 834, with changed khasra No.98//15/1 belonging to respondent was allotted to the petitioners-On application by Respondent No/2, Respondent No, 1 ordered correction, that also after 37

1. New sub-rules 17, 18 and 19 inserted by Punjab Government Notification No. 1462-D (11-60/1527. dated the 18.3.1960.

years and further ordered any deficiency if caused to respondent 2 may be made good out of Jumla Mushtarka Malkan-No jurisdictional error in the impugned order passed by Respondent No. 1 is found- Respondent 1 has the jurisdiction under Section 42 to correct the mistakes committed during consolidation Inordinate delay of 37 years is covered by apex Court judgment [1990(1) All INDIA LAND LAWS REPORTER 260-Rule 18 to the Rules provides limitation only to petitions filed against orders 'passed under the Act- Correction order passed by Respondent 1 is a just and reasonable order, even though after 37 years, calls for no interference.;

Prem Chand (deceased) through his legal heirs v. Additional Director Consolidation, Punjab and Ors. : 2004(3) land L.R. (Pb. & Hry.) 600

Rule 18- East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948-Section 42-Limitation-Director's powers to interfere-Held, there is no limitation for exercising the powers of the State Government-Held, Section 42 provides that any order passed under the Act can be reversed or modified at any time; **Punnu Ram and another v. The Additional Director, Consolidation of Holdings, Punjab and others: 2005(2) land L.R. (Pb. & Hry.) 378**

Rule 18- East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948, Section 42-Drain dugged through fields-Land consolidated in one Tak bifurcated in two parts; and amounted repartition of land after its allotment-Limitation period under Section 18 cannot be made applicable-Held, Bar of Limitation does not apply to those petitions under Section 42 in which legality or validity of a scheme prepared or confirmed or repartition is challenged; **Gram Panchayat Village Gujjarpur Tehsil Nawanshahr v. State of Punjab & ors : 2005(3) land L.R. (Pb. & Hry.) 204**

¹[**19. Fees on application.** -The following fees shall be payable in court fees stamps in respect of applications under section 42: -

(i) on the application	² Rs. [10]
(ii) on the copy of the order against which application is made	Rs.1
(iii) On a certified copy of the grounds of last appeal, if any filed under sub-section (3) or sub-section (4) of section 21.	Rs.1
(iv) Process fees	Rs. 2 up to four respondents and 50 naya paise for each additional respondents subject to a maximum of Rs. 5]

1 Notification 18.3.1960.

2 Vide GSR No. 74 Dated 22.2.1964

¹[Provided that the process fee shall not be payable unless the application is admitted and the respondents are ordered to be summoned.]

2[FORM C.H.1]

Recovery Card of Consolidation fee of Village..... Hadbast No..... Tehsil.....
District.....

Notes

Serial No.	Name of persons whose holding are affected	No. of Khewats / Khatunies	Area on which consolidation fee has been assessed in acres	Rate of consolidation	Demand	Remarks
Notes						
(i)	Columns Nos. 2 and 4			Names of persons whose holding are affected, parentage and caste with details of rights (owners, occupancy tenants, sanjjidars) and area should be entered according to the latest Jamabandi of the village.		
(ii)	Column No.3			Khewats and Khataunies should be written in respect of each person whose holdings are affected and has interest in them.		
(iii)	Column No.5			Rate of consolidation fee per acre should be entered in this column.		
(iv)	Column No.6			The demand of consolidation fee due from the persons whose holdings are affected should be entered in this column.		
(v)	Column No.7			In case there is any change under the order or mutation, etc., after the preparation of the list a mention should be made in the remarks column. .		

1 Added by Punjab Government Notification No. 6744-4 CHII 61/ 4884, dated the 6.9.1961.

2 Form C.H. 1 and C.H. 2 added by Punjab Government notification no 838-052/1757, dated the 29th /9th May, 1952.

¹[FORM C.H. 2-]

²[SCHEDULE]

For Punjab only

Reservation of land for various common purposes

1st Category (i.e. Estate with less than 1.50 acres of land) (a) Compulsory Items. –

1.	Roads, Village roads, field or arterial roads-	
(a)	Village to Village and circular road	4 to 6 karams wide
(b) (i)	roads to serve as communication to village fields from village abadi	3 to 4 karams wide
(ii)	Paths leading to Individual plots	2 Karams wide
(c)	Roads leading to village drinking well and ponds for watering cattle	1 to 2 karams wide
(d)	Other roads including those to be laid under the Development Scheme and to serve as links to existing pacca roads	6 to 8 karams wide
2.	Extension of Abadi for non proprietors of land	Each plot for extension of Abadi for non-proprietors shall be of 5 marlas and the total area shall be according to the requirements of the villagers. However in villages which are close to towns and most of non proprietors have no concern with Agricultural operations and they earn their livelihood by doing Labour in the adjoining towns the maximum area to be set apart for non proprietors who depend upon Agriculture shall not exceed 1 Kanal in districts of Jullundur Division and 1-1/2 kanals in districts of Patiala Division.
3.	Watercourses	...For the purposes of changes in alignment of Sarkari Watercourses of Sarkari construction of new watercourses the area reserved shall be the actual area covered by them. But in the case of Zamindari water-courses the khal or water-courses of customary width shall be made available through the lands of the Zamindars concerned without payment of compensation.
4.	Tanks	According to local requirements.

1 Omitted by GSR i84, Dated 15th May, 1963.

2 Schedule added by GSR 54/48/S. 46Amd. 5/69, dated the 3rd July, 1969.

5.	Menure pits	...Not exceeding: -
		(i) One marla in the case of a non-proprietor.
		(ii) four marlas in the case of a proprietor.
6.	Wells for drinking water	...Not exceeding 2 Kanals for a well
7.	Hada Rori etc.	10 Marlas
8.	Public Latrines	... 1/2 Kanal
9.	Schools and Playground	... 1 acre
10.	Cremation ground	... 1 Kanal (where there is no existing Panchayat Ghar of the approved design and specifications)

Optional Items-

1.	Fuel Plantation	...	1 acre
2.	Tanning places	...	2 kanals
3.	Thrashing & winnowing ground	...	1 acre
4.	Rural Dispensary or 1 st Aid Centre	...	2 Kanals
5.	Veterinary dispensary	...	2 kanals
6.	Road side Ada	...	2 kanals
7.	Storage for fuel and fodder	...	2 kanals
8.	Any other kindred poses	...	4 kanals

II	Category (i.e. Estates with 150 to 300 acres of land)	
(a)	Compulsory items- 1. Roads, village roads, field roads or arterial roads	
(a)	Village to village and circular roads	4 to 6 karams wide
(b) (i)	road to serve as communication to village fields from village abadi...	3 to 4 karams wide
(ii)	Paths leading to individual plots ...	2 karams wide
(c)	Roads leading to village drinking wells and ponds (for watering cattle)	1 to 2 karams wide
(d)	Other roads including those to be laid under the development scheme and to serve as links to existing pacca road	6 to 8 karams wide
2.	Extension of abadi for nonproprietors	for non-proprietors shall be of 5 marlas and the total area shall be according to local requirements. However, in villages which are close to towns and where most of the non-proprietors have no concern with Agricultural operations and they earn their livelihood by doing labour in the adjoining towns, the maximum

		area to be set apart for the non-proprietors who depend on agriculture shall not exceed 2 kanals in districts of Jullundur Division and 3 kanals in districts of Patiala Division.
3.	Tanks	According to local requirements
4.	Manure Pits	Not exceeding: -
		(i) One marla in the case of non proprietor;
		(ii) Four marlas in the case of a proprietor.
5.	Wells for drinking's water	Not exceeding 2 kanals for a well
6.	Hada Rori and tanning places	1 kanals
7.	Public Latrines	1/2 kanals
8.	School and play ground	1 acre
9.	Cremation ground	2 kanals
10.	Panchayat Ghar	1 kanals (where there is no existing Panchayat Ghar of the approved design and specifications)
11.	Water Courses	For the purpose of changes in alignment of Sarkari Water courses or construction of new Sarkari Water Courses the area reserved shall be the actual area covered by them. But in the case of Zamindari Water Courses the Khals or Water Courses of customary width shall be made available through the lands of the Zamindars concerned without payment of compensation.
(d)	Optional items	
1.	Fuel Plantation	1 acre
2.	Grazing ground	2 acres
3.	Tanning places	2 kanals if the area to be reserved for hada Rori and Tanning places under compulsory item is insufficient).
4.	Thrashing and winnowing ground	1 acre
5.	Rural Dispensary of First Aid Centre	2 kanals
6.	Veterinary dispensatory	2 kanals
7.	Road side Ads	2 kanals
8.	Storage of fuel and fodder	2 kanals
9.	Any other kindred purposes	4 kanals

III Category (Estate with land exceeding 300 acres but not exceeding 500 acres)

(a) Compulsory Items-

1.	Roads, Village roads, fields roads and arterial roads-	
(a)	Village to village and circular roads	4 to 6 karams wide
(b) (i)	Roads to serve as communication to village fields from village abadi	3 to 4 karams wide
(ii)	Paths leading to individual plots	2 karams wide
(c)	Roads leading to village drinking wells and ponds (for watering cattle)	1 to 2 karams wide
(d)	Other roads including those to be laid under the Development Scheme and to serve as links to existing pacca roads	6 to 8 karams wide
2.	Extension of Abadi for non-proprietors	Each plot for extension of abadi of non-proprietors shall be of 5 marlas and the total area shall be according to local requirements. However, in villages which are close to towns and where most of the non-proprietors have no concern with Agricultural Operations and they earn their livelihood by doing labour in the adjoining town the maximum area to set apart for the non-proprietors who depend on Agricultural shall not exceed 4 kanals in districts of Jullundur Division and 6 kanals in districts of Patiala Division.
3.	Tanks	According to local requirements.
4.	Manure pits	Not exceeding (i) one marla in the case of non-proprietor
		(ii) Four marlas in case of a proprietor
5.	Wells for drinking water	Not exceeding 2 Kanals for a well
6.	Hada Rori and Tanning places	1 Kanal
7.	Public Latrines	1 Kanal
8.	School and Playground	1-1/2 Acres
9.	Cremation ground	2 Kanals
10.	Panchayat Ghar	2 Kanals (where there is no existing Panchayat Ghar of the

		approved design and specifications).
11.	Water-courses	For the Purposes of changes in alignment of Sarkari Water-courses or construction of new Sakari Water-courses, the area covered by them, but in the case of Zamindari Water courses the khals or water-courses of customary width shall be made available through the lands of the Zamindari concerned without payment of compensation.
(d)	Optional Items	
1.	Fuel Plantation	3 Acres
2.	Grazing ground	2 Acres
3.	Tanning places	2 Kanals (if the area to be reserved or Hada Rori and tanning places under compulsory items is insufficient)
4.	Thrashing and winnowing ground	1-1/2 Acres
5.	Rural Dispensary of First aid center	2 Kanals
6.	Veterinary Dispensary	2 Kanals
7.	Road side Ada	2 Kanals
8.	Storage for fuel and fodder	2 Kanals
9.	Mela ground	1 Acres
10.	Village Theatre	1 to 2 Acres
11.	Gurdwara or Temple	1 to 2 Acres
12.	Any other kindred purposes	4 Kanals

IV-Category (estates with land exceeding 500 acres but not exceeding 1,000 acres)

(a) Compulsory Items-

1.	Roads, Village roads, fields roads and arterial roads-	
(a)	Village to village and circular roads	4 to 6 karams wide
(b) (i)	Roads to serve as communication to village fields from village abadi	3 to 4 karams wide
(ii)	Paths leading to individual plots	2 karams wide
(c)	Paths leading to village drinking wells and ponds (for watering cattle)	1 to 2 karams wide
(d)	Other roads including those to be laid under the Development Scheme and to serve as links to existing pacca roads	6 to 8 karams wide
2.	Extension of Abadi for non-proprietors	Each plot for extension of abadi for non-proprietors shall

		be of 5 marlas and the total area shall be according to local requirements. However, in villages which are close to towns and where most of the non-proprietors have no concern with Agricultural Operations and they earn their livelihood by doing labour in the adjoining towns, the maximum area to set apart for the non-proprietors who depend on Agricultural shall not exceed 6 kanals in districts of Jullundur Division and 9 kanals in districts of Patiala Division.
3.	Tanks	According to local requirements.
4.	Manure pits	Not exceeding (i) one marla in the case of non-proprietor (ii) Four marlas in case of a proprietor
5.	Wells for drinking water	Not exceeding 2 Kanals for a well
6.	Hada Rori and Tanning places	2 Kanals
7.	Public Latrines	1 Kanals
8.	School and Playground	1-1/2 Acres
9.	Cremation ground	2 Kanals
10.	Panchayat Ghar	2 Kanals (where there is no existing Panchayat Ghar of the approved design and specifications)
11.	Water-course	For the purpose of changes in alignment of Sarkari Water-courses or construction of new Sarkari Water-course the area reserved shall be the actual area covered by them but in the case of Zamindari Water-courses the khals or water-course of customary width shall be made available through the lands of the Zamindar concerned without payment of compensation.
(d)	Optional Items	
1.	Fuel Plantation	3 Acres
2.	Grazing ground	4 Acres

3.	Tanning Places	2 Kanals (if the area to be reserved for Hada Rori and tanning places under compulsory items is insufficient)
4.	Thrashing and winnowing ground	1- 1/2 Acres
5.	Rural Dispensary	2 Kanals
6.	Veterinary Dispensary	2 Kanals
7.	Road side Ada	2 Kanals
8.	Storage for fuel and fodder	2 Kanals
9.	Mela ground	1 to 2 Acres
10.	Village Theatre	1 to 2 Acres
11.	Gurdwara or Temple	1 to 2 Acres
12.	Any other kindred purposes	4 Kanals

V-Category (Estates with land exceeding 1,000 Acres but not exceeding 2,000 Acres)

(a) Compulsory Items-

1.	Roads, Village roads, fields roads and arterial roads-	
(a)	Village to village and circular roads	4 to 6 karams wide
(b) (i)	Roads to serve as communication to village fields from village abadi	3 to 4 karams wide
(ii)	Paths leading to individual plots	2 karams wide
(c)	Roads leading to village drinking wells and ponds (for watering cattle)	1 to 2 karams wide
(d)	Other roads including those to be laid under the Development Scheme and to serve as links to existing pacca roads	6 to 8 karams wide
2.	Extension of Abadi for non-proprietors	Each plot for extension of abadi for non-proprietors shall be of 5 marlas and the total area shall be according to local requirements. However, in villages which are close to towns and where most of the non-proprietors have no concern with Agricultural Operations and they earn their livelihood by doing labour in the adjoining town the maximum area to set apart for the non-proprietors who depend on Agricultural shall not exceed one acre in districts of Jullundur Division and

		1/1/2 acres in districts of Patiala Division.
3.	Tanks	According to local requirements
4.	Manure pits	Not exceeding (i) one marla in case of a non-proprietor; (ii) four marlas in case of a proprietor.
5.	Wells for drinking water	Not exceeding 2 Kanals for a well
6.	Hada Rori and tanning places	2 Kanals
7.	Public Latrines	1 Kanal
8.	School and play ground	2 Acres
9.	Cremation ground	1-1/2 Acres
10.	Panchayat Ghar	4 Kanals (where there is existing Panchayat Ghar of the approved design and specifications)
11.	Rural Dispensary	2 Kanals
12.	Veterinary Dispensary	1 Kanal
13.	Water-courses	For the purpose of changes in alignment of Sarkari Water-courses or construction of new Sarkari Water-course, the area reserved shall be the actual area covered by them But in the case of Zamindari Water-courses the khals or watercourses of customary width will be made available through the lands of the Zamindars concerned without payment of compensation.
(b)	Optional Items	
1.	Fuel Plantation	3 Acres
2.	Grazing ground	4 Acres
3.	Tanning Places	2 Kanals (if the area to be reserved for Hada Rori and tanning places compulsory items is in sufficient)
4.	Thrashing and winnowing ground	2 Acres
5.	Road side Ada Storage for fuel and fodder	2 Kanals
7.	Mela ground	1 to 2 Acres
8.	Village theatre	1 to 2 Acres
9.	Gurdwara or Temple	1 to 2 Acres
10.	Any other kindred purposes	4 Kanals

VI-Category (Estates with land exceeding 2,000 Acres) as in the category No.V except for extension of abadi which shall be as under: -

Each plot for extension of abadi of non-proprietors shall be 5 Marlas and the total area shall be according to local requirements. However, in villages which are close to towns and where most of the non-proprietors have no concern with the Agricultural Operations and they earn their livelihood by doing labour in the adjoining towns, the maximum area to be set apart for the non-proprietors who depend on Agriculture shall not exceed 2 acres in District of Jullundur Division and 3 Acres in Districts of Patiala Division.

The East Punjab Holdings (Consolidation and Prevention of Fragmentation) Validation Act,1969

Punjab Act 9 of 1969

CONTENTS

Sections

1. Short title
2. Validation

Received the assent of the President of India on the 7th June 1969 and was published in the Punjab Gazette, (Extra), legislative Supplement Part, I dated July 4, 1969 Asadha 13, 1891.

An act to validate certain scheme made under the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948.

Be it enacted by the Legislature of the State of Punjab in the Twentieth year of the Republic of India as follows: -

1. Short title – This Act may be called the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Validation Act, 1969.

2. Validation – Notwithstanding anything contained in any judgment decree or order of any court or other authority to the contrary, wherein any scheme made at any time before the commencement of this Validation Act, land has been assigned or reserved for a common purpose as defined in clause (bb) Section 2 of the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948, in accordance with the executive instructions issued by the Government from time to time, such scheme shall be and shall be deemed always to have been valid and no such scheme shall be and shall be deemed always to have been, valid and no such scheme shall be questioned merely on the ground that the scale for such assignment or reservation had not been laid down by the rules framed under the said Act.