

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No.202 of 2015

Date of decision: May 11, 2015.

Gursagar Singh etc.

... **Petitioners**

v.

Gram Panchayat Dhade Katwal etc.

... **Respondents**

CORAM: **HON'BLE MR. JUSTICE DR. BHARAT BHUSHAN PARSOON**

Present: Shri Onkar Singh, Advocate, for himself and for
petitioners No.1 to 3.

Dr. Bharat Bhushan Parsoon, J. (Oral):

Aggrieved with order dated 12.9.2014 whereby application of applicant Gram Panchayat, respondent No.1 herein, for condonation of delay in filing the appeal before Additional District Judge (Ad hoc), Fast Track, Hoshiarpur was allowed on 12.9.2014, is under challenge.

2. Application for condonation of delay in filing the appeal was detailed and elaborate. When tough contest was made to this application for condonation of delay in filing the appeal made by Gram Panchayat, the first appellate court proceeded to decide this application by framing issues and calling upon the parties to produce their oral as well as documentary evidence. The parties produced their evidence, considering which and after hearing their counsel, the first appellate court had come to a firm finding that averments with regard to condonation of delay were supported by evidence and were well founded. In the relevant portion of the penultimate para, observations of the first appellate court are as under:-

“The circumstances in which the case was decided are very

important in the present matter. Gram Panchayat is a body which is governed by elected members headed by the Sarpanch. If the head does not act in a responsible manner, then the remaining members of the Panchayat must be given a right to agitate the matter. There may some personal reasons for not contesting the suit, but the fact remains that the matter has to be decided on merits and the merits of the case means on the basis of evidence led or to be led by the parties. If the then Sarpanch did not acted in the interest of the Gram Panchayat, it does not mean that Gram Panchayat should be debarred from putting its case before the Court. In order to give proper opportunity, the appeal has to be decided o merits instead of dismissing it only on the ground of limitation. Accordingly, this issue is decided in favour of the applicant.”

3. Relevant portion of the discussion with regard to reasons for delay is apt and is appended as below:-

“The perusal of the judgment shows that defendant No.33 Gram Panchayat did not contest the suit after filing the written statement. When the suit was filed, the Gram Panchayat was arrayed as defendant No.33 and ti was being represented by Rekha Rani being Sarpanch. It is an admitted fact that the suit has been decided in tenure of Sarpanch Sewa Singh. The perusal of the judgment further shows that when the case was fixed for evidence of the plaintiff, the plaintiff was not cross examined by the Gram Panchayat ad the cross examination of very important witness Shri Gursagar Singh, who is pleaded to be an Advocate, was made nil after giving opportunity to the Gram Panchayat. It shows the clear cut connivance of the Sarpanch with the respondents. The matter was with regard to 15 kanals of land. The title of the property was disputed, therefore there was no occasion not to cross examine the witness. Further para No.6 of the judgment showed that Gram Panchayt did not lead its evidence to rebut the evidence led by the respondents and its defence was struck of. It further strengthened the allegations of connivance of the Sarpanch with the respondents. The subject matter of the suit is admitted to be 15 kanals of land.”

4. It is further relevant to mention that the lower court had come to a conclusion that Sarpanch of the Gram Panchayat had not disclosed the result of the suit to other Members of the Gram Panchayat and neither he himself filed any appeal nor allowed any other Member to intervene because no information had been given to them about judgment passed inter-alia

against the Gram Panchayat by the Court.

In view of the well written and elaborately explained order, there is neither any factual nor legal error.

Dismissed.

Keeping in view the nature of litigation, it is directed that the appeal would be decided within three months after hearing the Counsel for the parties.

May 11, 2015.
kadyan

[Dr. Bharat Bhushan Parsoon]
Judge