

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.11442 of 2015

Date of Decision:- 02.11.2015.

Ramji Dass

.....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE SURYA KANT

HON'BLE MR. JUSTICE P.B. BAJANTHRI

1. Whether Reporters of local papers may be allowed to see the judgment?

2. To be referred to the Reporters or not?

3. Whether the judgment should be reported in the Digest?

Present: Mr. Kanwaljit Singh, Senior Advocate with
Ms. Gurdeep Kaur, Advocate for for the petitioner.

Mr. Rajesh Bhardwaj, Additional A.G. Punjab.

Ms. Monika Jalota, Advocate for respondent No.3.

SURYA KANT, J. (ORAL)

1.) The petitioner has laid challenge to the order dated 19.3.2015 passed by Joint Development Commissioner (IRD), Punjab in exercise of powers of Commissioner-cum-Appellate Authority under the Punjab Village Common Lands (Regulation) Act, 1961 (for short 'Act'). Vide the said order, the Appellate Authority has allowed the appeal filed by respondent-Gram Panchayat of village Basantpura, Tehsil Rajpura, District Patiala against an order dated 5.2.2008 of the Collector-cum-Divisional Deputy Director, Rural Development Punjab, Patiala.

2.) The controversy pertains to land measuring 54 *bigha* 12

biswas situated within the revenue estate of village Basantpura. The petitioner claimed ownership rights and filed a declaration petition to this effect under Section 11 of the Act, *inter alia*, on the ground that the petitioner/his predecessors are in possession since the year 1952 and as per the nature of the land, it is excluded from the definition of *Shamlat Deh* under Section 2 (g) of the Act.

3.) The Collector allowed the above stated claim vide order dated 5.2.2008.

4.) The aggrieved Gram Panchayat filed an appeal after a delay of 5 years and 55 days apparently alleging collusion and connivance of the then Sarpanch of the Gram Panchayat with the petitioner. The said appeal of the Gram Panchayat has been allowed vide the impugned order dated 19.3.2015 but the Appellate Authority did not pass any formal order on the application seeking condonation of delay.

5.) Having heard learned counsel for the parties, it appears to us that the Appellate Authority was obligated to pass a reasoned order on the application for condonation of delay moved by the Gram Panchayat for the condonation of delay of 5 years and 55 days. It is only after forming an opinion that the delay was liable to be condoned that the appeal could be decided on merits. Since no such procedure was followed by the Appellate Authority, the matter requires redetermination at its hands.

6.) It may also be mentioned at this stage that the land in

dispute has since been acquired by the State Government and as per the affidavit filed by Land Acquisition Collector, Rajpura, the entire amount of compensation stands deposited in the Court in the shape of FDR on 22.8.2013.

7.) In this view of the matter and for the reasons aforesaid, we allow this writ petition; set aside the order dated 19.3.2015 and remit the case to the first respondent, namely, the Appellate Authority to decide firstly the application for condonation of delay and if the prayer of Gram Panchayat is accepted, then to decide the appeal on merits, in accordance with law. The petitioner is also permitted to file his reply to the application for condonation of delay before passing any order on that application. It shall be appreciated if the matter is decided by the Appellate Authority within a period of six months.

8.) Till the matter attains finality, the compensation amount shall remain in FDR in a Nationalized bank and whosoever is found entitled to, shall then be released the compensation along with interest as may accrue thereupon.

9.) The parties are directed to appear before the Appellate Authority on 21.12.2015.

**(SURYA KANT)
JUDGE**

**(P.B. BAJANTHRI)
JUDGE**

November 02, 2015.

sandeep sethi