

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

LPA No. 745 of 2015 (O&M)

DATE OF DECISION : 21.07.2015

Ram Karan (now deceased) through his LR

.... APPELLANT

Versus

Financial Commissioner, Haryana (Revenue), and another

.... RESPONDENTS

CORAM :- HON'BLE MR. JUSTICE SATISH KUMAR MITTAL

HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Present : Mr. Vikram Singh, Advocate,
for the appellant.

* * *

SATISH KUMAR MITTAL, J. (Oral)

This intra-court appeal under Clause X of the Letters Patent has been filed by the legal representative of Ram Karan against the order dated 05.03.2014 passed by the learned Single Judge in CWP No. 12489 of 2013 filed by Ram Karan (who expired during the pendency of the writ petition), which reads as under :

“Learned counsel for respondent No.2 submits that petitioner has already expired. He seeks permission of this Court to place on record certified copy of death certificate. Prayer is accepted. Same is taken on record as marked ‘A’. According to him, in view of same, no cause of action survives in this petition.

In view of above, this petition is dismissed as having been rendered infructuous.”

The appellant had also filed review application (RA No. 530 of 2014) seeking review of the said order, which has been dismissed by the learned Single Judge vide order dated 17.03.2015, while observing as under :-

“On March 05, 2014, a statement was made before this court that petitioner had died during the pendency of petition. Thus, same had been rendered infructuous. This court accepted the plea and dismissed the writ petition. Petitioner, thereafter preferred LPA No. 1150 of 2014. Same was withdrawn with liberty to move the review application. I, however, find no ground to review the order dated March 05, 2014. Admittedly, petitioner has died. Counsel for the applicant seeks review of the order by impleading the son of petitioner as his legal representative. It is, however, not clear how son of the petitioner can pursue the matter. Law is well settled on the point that Lambardar cannot be appointed on the basis of hereditary claim. No fresh ground is made out for interference. Dismissed.”

There is delay of 391 days in filing the instant appeal, and the appellant has filed an application (CM No. 1538-LPA of 2015) for condoning the said delay. Though there is no sufficient ground to condone the said delay, yet we have heard learned counsel for the appellant on merits and have gone through the impugned order passed by the learned Single Judge.

Undisputedly, at one stage, Ram Karan was appointed as Lambardar of village Sirsala, Tehsil Thanesar, District Kurukshetra, by the Collector. His appointment was confirmed upto the Financial Commissioner. However, orders of his appointment as Lambardar by the

authorities below were set aside by this court vide order dated 06.07.2010 (Annexure P-5) passed in CWP No. 2400 of 2010 filed by Rajbir Singh (respondent No.2 herein) and the matter was remanded to the Financial Commissioner. On remand, the Financial Commissioner, after considering the various aspects of the matter, including the health of Ram Karan, appointed Rajbir Singh as Lambardar of the village. Ram Karan challenged the said order by filing the writ petition (CWP No. 12489 of 2013). During the pendency of that petition, he died. Accordingly, the learned Single Judge observed that in view of the death of the petitioner during the pendency of the writ petition, no cause of action survives to the legal heirs of Ram Karan.

We do not find any illegality in the said order. It appears that the instant appeal has been filed by the appellant under an ill advise. Once Ram Karan is not available for appointment of Lambardar since he has died, the order of the Financial Commissioner appointing Rajbir Singh as Lambardar of the village cannot be set aside and the writ petition filed by Ram Karan (now dead) has rightly been held to have become infructuous by the learned Single Judge.

No merit. Dismissed.

(SATISH KUMAR MITTAL)
JUDGE

July 21, 2015
ndj

(HARINDER SINGH SIDHU)
JUDGE