

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

CWP No.20663 of 2016

Date of Decision : 19.10.2016

Smt. Laxmi and others

....Petitioners

Versus

State of Punjab and others

....Respondents

CORAM : HON'BLE MR.JUSTICE MAHESH GROVER
HON'BLE MR.JUSTICE DR.SHEKHER DHAWAN

Present: Mr. A.P.Kaushal, Advocate
for the petitioners.

Mr. B.S.Bali, Advocate
for the caveator/respondent No.4.

.....

MAHESH GROVER, J.

The petitioners impugn the orders Annexures P-6, P-9 and P-3.

An order adverse to the petitioners under Section 7 of the Punjab Village Common Lands (Regulation) Act, 1961(hereinafter referred to as 'the Act') was passed way back on 23.05.2005. No appeal was preferred by the petitioners against this order for more than 9 years. Whereafter they moved an application before the Collector invoking Section 11 of the Act which was returned to them on 16.07.2014. These proceedings too were initiated by the petitioners after a lapse of 9 years after the order dated 23.05.2005.

Subsequent thereto the petitioners preferred an appeal against the order dated 23.05.2005 along with an application for condonation of delay of 4333 days in filing the appeal. The said

application was dismissed leading to a challenge in the writ proceedings where the Court observed as follows :-

“In our considered view, no fault can be found with the impugned order rejecting the application for condonation of delay or consequently dismissing the appeal, unless the petitioners make out a case that no Court proceedings were held on the dates mentioned in the impugned order. We thus decline to interfere with the impugned order except to grant liberty to the petitioners to present the application dated 08.09.2015 before the Appellate Authority who may consider and decide the same in accordance with law by way of passing a reasoned order, preferably within a period of one month from the date of its filing.

Ordered accordingly. Dasti.”

An order dated 21.07.2016 was then passed giving details of dismissal of the application under Section 5 of the Limitation Act which has now been impugned in the writ petition.

It has been noticed in the order that during the course of hearing of the application for condonation of delay the matter was fixed for 28.08.2015 before the Commissioner who did not hold court on the said date, to adjourn the matter to 31.08.2015, on which date learned counsel for the petitioners was not present leading to another adjournment on 04.09.2015, on which date again neither the counsel for the petitioners nor the petitioners themselves were present

resulting in the dismissal of the application for condonation of delay.

The petitioners asserted before the authority that on 04.09.2015 the court did not function which apparently seems to be a blatant untruth when the application of the petitioners under Order 9 Rule 13 CPC is seen where they plead that according to them after 31.08.2015 the matter was adjourned to 07.09.2015 and a mistake in noting down the correct date was pleaded. Nowhere in the application it was stated that on 04.09.2015 the Court did not function. Apparently, the petitioners are adopting dilatory tactics to subvert law and enhance their claim to possession. In any eventuality the observation of the writ court recorded in CWP No.3238 of 2016, extracted above, would leave no further room for interference as the limited window granted to the petitioners to establish a reasonable and just cause for non-appearance is not based on any persuasive or relevant material to prompt the Commissioner to interfere in the case. Rather, it is a case of repeated default aggravated by inaction for more than 9 years and a false assertion before the Court.

No ground to interfere.

Dismissed.

(MAHESH GROVER)
JUDGE

19.10.2016
dss

(SHEKHER DHAWAN)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No