

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

Civil Writ Petition No.3238 of 2016

Date of Decision: February 17, 2016

Lashmi and others

....Petitioners

versus

The State of Punjab and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT.
HON'BLE MR.JUSTICE P.B.BAJANTHRI.

Present: Mr.Malkeet Singh, Advocate, for the petitioners.

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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?*

Surya Kant, J. (Oral)

The petitioners suffered with an eviction order under Section 7 of the Punjab Village Common Lands (Regulation) Act, 1961 (for short, 'the Act') at the instance of the Gram Panchayat of their village, way back on 23.05.2005. The finding was that they have encroached upon the land of the village pond.

No appeal was filed against the eviction order. It was after more than 9 years, the petitioners moved an application before the same Authority, namely, the Collector under Section 11 of the Act. The same was returned on 16.07.2014 with the observations that the said Court has no jurisdiction to decide such like dispute.

It is thereafter that the petitioners chose to file an appeal against the eviction order dated 23.05.2005, before the Appellate Authority under Section 7(2) of the Act. They also moved an application for condonation of delay of 4333 days in filing the appeal.

The said application has been dismissed vide the impugned order observing that no one appeared on behalf of the appellants to argue the application on the dates fixed for hearing, i.e., 08.05.2015, 15.05.2015, 24.07.2015, 28.08.2015, 31.08.2015 and 04.09.2015. Counsel for the Gram Panchayat was statedly present.

Learned counsel for the petitioners states that the Appellate Authority did not hold the Court on those dates except one day and all these facts are duly mentioned in the application dated 08.09.2015 (P-7) wherein they have prayed for the recalling of appellate order.

We have heard learned counsel for the petitioners and gone through the record.

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 months from the date of its filing.

Ordered accordingly. Dasti.

[SURYA KANT]
JUDGE

February 17, 2016
mohinder

[P.B.BAJANTHRI]
JUDGE