

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Writ Petition No.6291 of 2016

Date of Decision: June 01, 2016

Karnail Singh

.....Petitioner

versus

State of Punjab and others

.....Respondents

**CORAM:HON'BLE MR.JUSTICE SURYA KANT.
HON'BLE MR.JUSTICE A.B.CHAUDHARI.**

Present: Mr.Munish Gupta, Advocate, for the petitioner.
Mr.K.K.Gupta, Additional Advocate General, Punjab.
Mr.Ajay Pal Singh Rehan, Advocate, for respondent No.4.

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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 petitioner assails the order dated 14.08.2015 (P-5) whereby his appeal in a matter arising out of proceedings under Section 11 of the Punjab Village Common Lands (Regulation) Act, 1961 (for short, 'the 1961 Act') has been dismissed on the technical ground that he failed to file the appeal within two weeks of receipt of certified copy of the order dated 05.12.2014 passed by this Court.

[2] It is not necessary to mention all the facts except to say that the petitioner filed a petition under Section 11 of the 1961 Act seeking declaration of his ownership in respect of the land measuring 83 kanal 14 marla fully described in the head note of that petition. The Collector dismissed the said petition on 20.05.2014. Even before dismissal of the petition, the petitioner approached this Court seeking transfer of the case.

Pending that petition, the Collector pronounced the order. Therefore, this Court permitted the petitioner to file an appeal within two weeks from the date of receipt of a certified copy of the order and in that event, no objection re: limitation was permitted to be raised by the respondents.

[3] The aforesaid order was passed by this Court on 05.12.2014. The petitioner though received the certified copy of that order but did not file the appeal within two weeks. The appeal was filed by him on 18.03.2015 and, as noticed at the outset, the same has been dismissed being barred by limitation on the ground that the petitioner failed to avail the remedy within the time limit granted by this Court.

[4] According to the petitioner, possession of the land has already been taken-over by the Gram Panchayat in the year 2011. This fact is not disputed by learned counsel for the Gram Panchayat also. However, since the land remained in possession of the petitioner from the year 2005 onwards till its possession was taken-over by the Gram Panchayat, that on May 09, 2016, he was directed to bring a demand draft of Rs.5.0 lacs in favour of the Gram Panchayat towards security for the loss, if any, suffered by the Gram Panchayat towards its income during the aforesaid period. In deference thereto, the petitioner brought a demand draft of Rs.5.0 lacs on 24.05.2016 in favour of the Gram Panchayat, whereupon notice of motion was issued to the respondents.

[5] Heard learned counsel for the parties.

[6] Since the petitioner has furnished adequate security to protect the interest of the Gram Panchayat, we are of the considered view that his appeal deserves to be decided on merits. Consequently, we allow this petition in part to the extent that the impugned order dated 14.08.2015

passed by the Appellate Authority is set-aside with a direction that Appeal No.30 of 2015 filed by the petitioner be decided on merits after condoning the delay. The Appellate Authority shall make an endeavour to decide the appeal preferably within a period of four months from the date of receiving a certified copy of this order.

[7] Registrar Judicial is directed to release the amount of Rs.5.0 lacs in favour of the Gram Panchayat of village Alamgir, Tehsil and District Kapurthala. The Gram Panchayat shall keep the said amount in fixed deposit in any Nationalized Bank and shall be entitled to utilize the interest accrued thereupon for the welfare activities of the village. It is made clear that if the petitioner establishes ownership qua the suit land, the Gram Panchayat shall be liable to refund the principal amount to him.

[8] The parties are directed to appear before the Appellate Authority on 04.07.2016.

[9] Dasti.

**[SURYA KANT]
JUDGE**

June 01, 2016
mohinder

**[A.B.CHAUDHARI]
JUDGE**