

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

Letters Patent Appeal No.72 of 2014 (O&M)
Date of Decision: May 10, 2016

Samual

.....Appellant

versus

The State of Haryana and others

.....Respondents

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

Present: Mr.Ashish Aggarwal, Senior Advocate with
Mr.Vipul Aggarwal, Advocate, for the appellant.
Mr.Vishal Garg, Additional AG, Haryana.
Mr.S.R.Hooda, Advocate, for respondent Nos.5 & 6.

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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)

This letters patent appeal is directed against the order dated 23.07.2013 passed by learned Single Judge whereby the appellant's writ petition has been dismissed on the ground of inordinate delay and laches.

The learned Single Judge has found that the appellant was aggrieved by the orders dated 02.12.1994 passed by the Settlement Officer (Sales), Ambala and dated 07.05.1996 passed by the Joint Secretary, Rehabilitation-cum-Settlement Commissioner, Haryana. Against those orders, the appellant filed a revision petition in the year 2009 before the Financial Commissioner, Revenue, Haryana, who dismissed the

same by way of a well reasoned order though primarily on the ground of unexplained delay and laches. It was further observed that Rule 18, under which the revision petition was filed, itself came into existence much after 07.05.1996, namely, the date of order against which the revision petition was filed.

The appellant has now taken the plea that he had filed a Civil Suit for declaration which was dismissed in the year 2008 only, does not rescue him and is not a valid explanation for the inordinate delay. We say so for the reason that the said civil suit was instituted in the year 1993 and the appellant managed to continue with parallel proceedings which he lost vide orders dated 02.12.1994/07.05.1996. The civil suit was filed even before passing of the order dated 02.12.1994. The orders passed by Rehabilitation Authorities were not under challenge in the civil suit. The revision petition challenging those orders was filed after a lapse of 12 years in the year 2009. Thus, the learned Single Judge has rightly held the petition suffered from inordinate delay and laches.

Faced with this, learned counsel for the appellant points-out that the private respondent-auction purchaser had bid for the land measuring 77 kanal only out of the total land measuring 99 kanal 19 marla. He contends that the remaining 22 kanal 09 marla land is still available with the State Government to consider the claim of the appellant.

There appears to be some merit in the above-stated contention. Since the appellant has been in continuous possession of the suit-land, for decades; he belongs to Scheduled Caste category for whom the subject-land is reserved and the left-out land is apparently the only source of sustenance for appellant, we allow this appeal in part and

modify the order passed by learned Single Judge and dispose of the appellant's writ petition with a direction to the State Government to consider the desirability of selling the left-out land measuring 22 kanal 19 marla to the appellant at the same rate on which respondent No.5 purchased the remaining 77 kanals land through limited auction. In the event of acceptance of appellant's claim, he shall be liable to deposit the entire sale-consideration alongwith interest at the same rate as was levied or would be recovered from the auction-purchaser. An appropriate decision in this regard shall be taken within a period of four months from the date of receiving a certified copy of this order.

Ordered accordingly.

Dasti.

[SURYA KANT]
JUDGE

May 10, 2016
mohinder

[A.B.CHAUDHARI]
JUDGE