

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

**Civil Writ Petition No.10597 of 2018 (O&M)
Decided on : 18.09.2018**

Gursewak Singh and others

... Petitioner

Versus

Superintending Canal Officer, Ferozepur Canal Circle and others

... Respondents

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present : Mr. Jasmail Singh Brar, Advocate
for the petitioners.

Mr. TPS Chawla, DAG, Punjab.

Mr. SPS Tinna, Advocate
for respondents No.3, 6, 7 & 9.

G.S. Sandhawalia, J. (Oral)

CM-10747-CWP-2018

Application for placing on record written statement alongwith annexures and for exemption from filing certified copies/true typed copies of the same, is allowed, subject to just exceptions. Written statement alongwith annexures is taken on record. Office to append the same at the appropriate place.

CM stands disposed of.

Main petition

Reply by way of affidavit of Shri Mukhtiar Singh Rana, Divisional Canal Officer, Abohar Canal Division, Abohar on behalf of respondents No.1 and 2 filed in the Court, is taken on record. Office to append the same at the appropriate place.

The petitioner challenges the order dated 12.04.2018 (Annexure P-9), whereby respondent No.1 has dismissed the appeal filed by the petitioners on account of delay of 219 days.

Counsel for the respondents No.3, 6, 7 & 9 has stated that he has no objection if the said order is set aside and the matter is heard on merits by the respondent No.1. The appeal as such was against the order dated 02.08.2017 (Annexure P-7) passed by respondent No.2-Divisional Canal Officer, whereby directions were issued by splitting the outlet and by withdrawing some area and sanctioning of outlet.

Keeping in view the fact that it was a first appeal and in view of the consent granted, this Court is of the opinion that the matter should have been heard on merits, as interest of all land owners is involved, since it is a settled principle that the lis should have been decided on merits rather than a technical approach taken regarding issue of limitation, specially when delay is not substantial.

Accordingly, order dated 12.04.2018 (Annexure P-9) is set aside. The respondent No.1 shall hear the appeal on merits and make efforts to decide the same within a period of three months from the receipt of the certified copy of this order.

Disposed of.

SEPTEMBER 18, 2018

Naveen

**(G.S. SANDHAWALIA)
JUDGE**

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No