

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

1. Civil Writ Petition No.19987 of 2018

Date of decision: 13.08.2018

Madan Lal

...Petitioner

Versus

State of Punjab and others

...Respondents

2. Civil Writ Petition No.19970 of 2018

Dhian Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

3. Civil Writ Petition No.19971 of 2018

Mangal Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

4. Civil Writ Petition No.19975 of 2018

Madan Lal

...Petitioner

Versus

State of Punjab and others

...Respondents

5. Civil Writ Petition No.19988 of 2018

Jaswant Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

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

Present: Mr. Raj Kumar Garg, Advocate for the petitioner.

G.S.SANDHAWALIA, J. (Oral)

This order shall dispose of Civil Writ Petition Nos.19987, 19970, 19971, 19975 and 19988 of 2018 as common questions of fact and law are involved in these petitions. However, for dictating this order, the facts have been taken from Civil Writ Petition No.19987 of 2018-Madan Lal Vs. State of Punjab and others.

The present petitions have been filed under Articles 226/227 of the Constitution of India for quashing the orders of warrant of possession dated 27.10.2017 (Annexure P/6) passed by respondent no.4-DDPO, Pathankot. Challenge is also raised to the ejectment orders passed more than two decades earlier on 11.10.1996 (Annexure P/4) by the Collector, Gurdaspur against Chatar Singh, the predecessor-in-interest of the petitioner. Similarly challenge is also raised to the orders of the Appellate Authority dated 13.6.2000 (Annexure P/5) passed by respondent no.3-Commissioner, Jalandhar Division, Jalandhar rejecting the appeal.

Counsel for the petitioner(s) has vehemently submitted that the warrants of possession were issued after 18 years in the name of Chatar Singh who had died and therefore, the same was illegal.

It is a matter of record that the said orders of eviction and orders passed by the Appellate Authority were never challenged by said Chatar Singh. Possession of the petitioners continued only on the strength of they being legal representative and once Chatar Singh himself has not challenged the order of eviction and the order passed by the Appellate Authority, the petitioners continued to remain in possession as unauthorised occupants and they now have been dispossessed in accordance with law. Merely because they continued to hold the land as an unauthorised occupants for a long passage of time, they would not get any further vested

right.

In such circumstances, the present writ petitions are also patently time barred as such.

It is settled principle that law protects the ones who are vigilant and do not sleep over their rights. After a period of two decades, argument addressed on merits as such regarding the right of the petitioners to continue in possession is without any basis. The said orders have never been challenged within a reasonable period of time. In such circumstances, the warrants of possession which were issued and have been duly executed were only in continuation of the orders passed earlier and it is only a procedural aspect.

The Hon'ble Apex Court in **Pundlik Jalam Patil (D) by LR.s. vs. Exe. Eng. Jalgaon Medium Project and another, 2009 (1) PLR 128** has observed as under:-

“14.....The applicant having set the machinery in motion cannot abandon it to resume it after number of years because the authority with whom it had entered into correspondence did not heed to its request to file appeals. The question is : Can the respondent/applicant in this case take advantage of its negligence, after lapse of number of years, of the decision of Government? It knew the exact grounds on which appeals could have been preferred. The law will presume that it knew of its right to file appeal against the award. Everybody is presumed to know law. It was its duty to prefer appeals before the court for consideration which it did not. There is no explanation forthcoming in this regard. The evidence on record suggest neglect of its own right for long time in preferring appeals. The court cannot enquire into belated and stale claims on the ground of equity. Delay defeats equity. The court helps those who are vigilant and 'do not slumber over their rights.'

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18. Shri Mohta, learned senior counsel relying on the decision of this

court in [N. Balakrishnan vs. M. Krishnamurthy](#) [(1998) 7 SCC 123] submitted that length of delay is no matter, acceptability of explanation is the only criterion. It was submitted that if the explanation offered does not smack of mala fides or it is not put forth as part of dilatory tactics the court must show utmost consideration to the suitor. The very said decision upon which reliance has been placed holds that the law of limitation fixes a life span for every legal remedy for the redress of the legal injury suffered. Unending period for launching the remedy may lead to unending uncertainty and consequential anarchy. The law of Limitation is thus founded on public policy. The decision does not lay down that a lethargic litigant can leisurely choose his own time in preferring appeal or application as the case may be. On the other hand, in the said judgment it is said that court should not forget the opposite party altogether. It is observed:

It is enshrined in the maxim interest reipublicae up sit finis litium (it is for the general welfare that a period be put to litigation). Rules of limitation are not meant to destroy the rights of the parties. They are meant to see that parties do not resort to dilatory tactics but seek their remedy promptly. The idea is that every legal remedy must be kept alive for a legislatively fixed period of time.”

A perusal of paragraph no.12 of the writ petition would go on to show that in pursuance of warrant of possession, the petitioners already stand dispossessed and possession has already been taken.

In view of the above facts and circumstances noted, this Court is not inclined to issue any direction in exercise of jurisdiction under Article 226 of the Constitution of India.

Accordingly, the present writ petitions are dismissed in limine.

August 13, 2018
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(G.S.SANDHAWALIA)
Judge

Whether speaking/reasoned
Whether reportable:

Yes/No
Yes/No