

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

**CM 3142/2019 in/and
CWP 1001/2019(O&M)**

Date of decision:27.02.2019

Rishi Kumar Kaushik

.....Petitioner

v.

State of Haryana and others

.....Respondents

**Coram: Hon'ble Mr.Justice Jaswant Singh
Hon'ble Mr.Justice Arun Kumar Tyagi**

Present:- Mr.Jatin Hans,Advocate for the applicant/petitioner.

Jaswant Singh,J,(Oral).

CM 3142/2019 is allowed. Copy of petition under Section 7 of the Punjab Village Common Lands (Regulation)Act,1961; and copies of zimni orders in proceedings before the Assistant Collector Ist Grade,Bhiwani are taken on record as Annexures P-6 and P-7 (colly.) respectively.

Petitioner by way of filing this writ petition is seeking quashing of order dated 6.3.2013 (P-3) passed by Assistant Collector Ist Grade,Bhiwani whereby he has been ordered to be evicted from the land in dispute. Further prayer is to quash order dated 1.12.2015 (P-1) vide which his appeal against order P-3 was dismissed in default as also order dated 13.10.2016(P-2) vide which his application for restoration of appeal has also been filed.

Heard counsel for the petitioner.

Facts in brief are that one Maman filed an application under

Section 7 of the Punjab Village Common Lands (Regulation) Act, 1961 against petitioner-Rishi Ram Kaushik and Gram Panchayat, Kaunt Tehsil and Distt. Bhiwani through Sarpanch, alleging therein that petitioner has raised illegal construction on the land belonging to Gram Panchayat comprised in khewat no. 331, Khatoni No. 384, Killa no. 21/3 and had refused to remove his unauthorised possession. Hence eviction of the petitioner from the land in dispute was sought.

Petitioner was duly served and was represented by his counsel. Despite numerous opportunities petitioner failed to file reply to the application. On the other hand applicant-Maman had produced demarcation report in which it was found that petitioner was in illegal possession of the Panchayat land described above. A perusal of the impugned order dated 6.3.2013 (P-3) passed by Assistant Collector Ist Grade, Bhiwani reveals that he had personally visited the land in dispute and recorded statements of persons present there whereupon it was found that petitioner was in illegal possession of the suit land. It is in these circumstances that eviction order P-3 was passed against the petitioner on 6.3.2013.

Petitioner sought setting aside of order dated 6.3.2013 by filing an appeal on 21.3.2013 before Collector, Bhiwani, upon which respondent Gram Panchayat etc., and records were summoned. The case was listed for arguments on 16.7.2013. However, on that date neither the petitioner nor his counsel put in appearance. Accordingly, the said appeal of the petitioner was dismissed in default. Still dis-satisfied, petitioner moved an application before Collector for restoration of his appeal. The said restoration application was allowed vide order dated 8.9.2015 subject to deposit of Rs.1000/- as costs by the petitioner. The petitioner again neither deposited

the costs nor he or his counsel put in appearance on the date fixed i.e. 1.12.2015 and accordingly his appeal again stood dismissed in default. Petitioner again sought restoration of his appeal by moving an application but the same was also dismissed by Collector,Bhiwani vide order dated 13.6.2016.

The facts as noticed above, reveal that petitioner has been negligent right from the beginning as despite service he did not file reply nor he or his counsel appeared before the Assistant Collector Ist Grade,Bhiwani when the case was listed for arguments. His appeal at the first instance was dismissed in default and when it was ordered to be restored subject to payment of costs, petitioner failed either to deposit the costs or to cause appearance on his behalf. This negligent attitude of the petitioner is sheer abuse of process of law and wastage of precious time of Court which dis-entitles him from any indulgence by this Court.

Apart from the above, the petitioner has taken more than 2 years and 4 months to approach this Court in challenging the impugned orders for which no explanation has been put forth.

Dismissed.

(Jaswant Singh)
Judge

27.02.2019
joshi

(Arun Kumar Tyagi)
Judge

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No