

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

116

Civil Writ Petition No.3683 of 2019
Date of Decision: February 11th, 2019

Bal Ram alias Bali Ram

...Petitioner

Versus

The Financial Commissioner (Appeals), Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Peeush Gagneja, Advocate
for the petitioner.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Petitioner has approached this Court challenging the order dated 11.07.2013 (Annexure P-2), whereby the mode of partition was finalised, order dated 30.07.2014 (Annexure P-3), according to which the instrument of partition (sanad taksim) was prepared, order dated 07.07.2015 (Annexure P-4) passed by Assistant Collector Ist Grade, Abohar-respondent No.2 as well as the order dated 18.07.2018 (Annexure P-5), whereby the revision petition preferred by the petitioner before the Financial Commissioner (Appeals), Punjab, stands dismissed on the question of limitation.

2. It is the contention of learned counsel for the petitioner that after the sanad taksim dated 07.07.2015 (Annexure P-4) was passed by the Assistant Collector Grade I, Abohar, petitioner on a wrong advice, filed a civil suit in January 2016. The civil suit continued for two years until it was dismissed on 07.12.2017, against which the petitioner preferred a revision petition before the Financial Commissioner on 17.01.2018. The said revision petition was dismissed by the Financial Commissioner (Appeals), Punjab, on the ground of delay of 1179 days in filing the same. Counsel for

delay in filing the revision petition after an inordinate delay as he had approached the counsel for his advice and as per the advice of the counsel, had filed a civil suit, which was a wrong remedy availed by the petitioner. Merely because of the wrong advice and the mistake of the counsel, the petitioner should not be made liable for the loss of his share in the land, which he inherited from his mother, which could not have been included in the joint *khata*. He, thus, contends that the Financial Commissioner (Appeals), Punjab, has failed to appreciate that the delay on the part of the petitioner in filing the revision petition was neither intentional nor deliberate but because of the wrong advice received by him. He, thus, contends that the order dated 18.07.2018 (Annexure P-5) as passed by the Financial Commissioner (Appeals), Punjab, deserves to be set aside and the matter remanded for fresh decision on merit.

3. I have considered the submissions made by learned counsel for the petitioner and with his assistance, have gone through the records of the case.

4. As per the admitted position, the instrument of partition (sanad taksim) was ordered on 07.07.2015 (Annexure P-4) by the Assistant Collector Grade I, Abohar. Revision petition, if any, against the said order was maintainable within a period of 30 days. The suit itself was filed by the petitioner in January 2016, which is after a period of five months. Thereafter the said civil suit was dismissed in December 2017. Revision petition has been filed by the petitioner on 17.01.2018. Perusal of the above would indicate that at every stage, there has been delay on the part of the petitioner in approaching the competent forum. The period as has been prescribed under the statute is 30 days. The reasoning and the

justification, which is being sought to be projected by the petitioner, cannot be accepted.

5. In view of the above, the order dated 18.07.2018 (Annexure P-5) as passed by the Financial Commissioner (Appeals), Punjab, cannot be faulted with.

6. The writ petition, therefore, stands dismissed.

February 11th, 2019
Puneet

AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No