

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

CWP No.11180 of 2016(O&M)

Date of Decision:-14.01.2019

Harvinder Singh & Ors.

.....Petitioners.

Versus

**Director, Department of Rural Development & Panchayat, Punjab &
Ors.**

.....Respondents.

**CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH
HON'BLE MR. JUSTICE ARUN KUMAR TYAGI**

Present:- Mr. Harsh Bunger, Advocate for the Petitioners.

Mr. H.S. Grewal, Additional Advocate General, Punjab.

Mr. NPS Mann, Advocate for respondent no.5.

JASWANT SINGH, J.(ORAL)

Six petitioners and the private proforma respondents nos.6 to 15 are residents of village Jhabal, Tehsil and District Tarn Taran.

Six petitioners alongwith private respondents were proved to be owners in possession of the land in dispute measuring 12 Kanals 04 Marlas comprised in *Khasra* No.227 situated within the *Lal Dora* of the village and comprising *abadi deh* of village Jhabal vide order dated 24.12.2009 passed by Collector Kapurthala in the suit for declaration filed by Harvinder Singh-petitioner no.1 and Baldev Singh under Section 11 of The Punjab Village Common Land(Regulations) Act 1961 (hereinafter referred to as the 1961

respondents therein.

It transpires that the Gram Panchayat of village Jhabal stood bifurcated in 07 Gram Panchayats as detailed in para no.06 of the writ petition.

The Gram Panchayat village *Adda Jhabal* filed Appeal No.58 of 2015 against the order dated 24.12.2009 (P-5) along with an application for condonation of delay of more than 05 years before the Commissioner i.e. The Director, Department of Rural Development and Panchayat, Punjab (exercising the powers of Commissioner).

The delay of more than 05 years was condoned vide impugned order dated 05.06.2015 (P-15) without notice to the petitioners i.e. respondents therein and recording of any reasons finding of sufficient cause warranting condonation of delay.

In the present writ, prayer is for quashing of the impugned order dated 05.06.2015 (P-15).

Although written statements have been filed, however, at the time of hearing, Mr. NPS Mann, Advocate appearing for the Gram Panchayat-respondent no.5 (Village *Adda Jhabal*) concedes that legally delay could not have been condoned without due notice to the affected persons and after granting opportunities to them to file their replies.

In view of the aforesaid factual and legally agreed stand, the plea of the petitioner is liable to be accepted qua challenge to Annexure P-15.

Accordingly, order dated 05.06.2015 (P-15) is set aside. The parties are directed to appear before the officer exercising the powers of Commissioner under the 1961 Act on next date fixed in the main appeal or

to be fixed for the purpose of granting an opportunity to the petitioners (respondents therein) to file their written replies to the application for condonation of delay and thereafter decide in accordance with law before proceeding to entertain the main appeal on merits.

Disposed of in the above terms.

(JASWANT SINGH)
JUDGE

(ARUN KUMAR TYAGI)
JUDGE

January 14, 2019
Vinay

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>