

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

CWP No. 25381 of 2017 (O&M)

Date of Decision: 11.07.2019

JOGINDER SINGH

..... *Petitioner*

V/s.

***DIRECTOR RURAL DEVELOPMENT AND PANCHAYAT
DEPARTMENT PUNJAB & OTHERS***

.....*Respondents*

**CORAM: HON'BLE MR. JUSTICE RAKESH KUMAR JAIN.
HON'BLE MR. JUSTICE ARUN KUMAR TYAGI.**

Present: Mr. Jatinder Singla, Advocate,
for the petitioner.

Ms. Kirti Singh, DAG, Haryana.

Ms. Sushma Chopra, Advocate and
Ms. Nimarata Kaur, Advocate,
for Mr. Sunil Agnihotri, Advocate,
for the respondent No. 3

RAKESH KUMAR JAIN, J. (Oral)

This petition is directed against the order dated 04.07.2016 passed by the Director, Rural Development and Panchayat Department, Punjab (exercising the powers of the Commissioner) by which appeal filed by the petitioner against the order passed in terms of the provisions of the Punjab Village Common Lands (Regulations) Act, 1961 has been dismissed in his absence.

Learned counsel for the petitioner has submitted that in case where the appellant/petitioner fails to appear, the Court may dismiss his case in default and where defendant/respondent fails to appear, ex-parte decree could be passed. It is, thus, submitted that proper course for the learned Court below was to dismissed the case in default instead of deciding the same on

merits.

Ms. Sushma Chopra, Advocate has filed her power of attorney on behalf of respondent No. 3 and submitted that she has no objection if this writ petition is allowed while setting aside the impugned order, remanding the matter back to the appellate authority to decide the same after hearing both the parties. However, she has submitted that the petitioner may be saddled with some cost on account of non-appearance before the Court below.

In view of the aforesaid, the writ petition stands allowed. The impugned order is hereby set aside and the matter is remanded back to the appellate authority to decide it on merits by associating the parties and by passing a speaking order. The petitioner shall deposit the cost of ₹10,000/- with the Gram Panchayat. It is made clear that until and unless, the evidence of amount having been paid to the Gram Panchayat is not produced before the appellant authority, the appeal shall not be entertained.

Parties are directed to appear before the appellate authority on 29.07.2019.

**[RAKESH KUMAR JAIN]
JUDGE**

July 11, 2019
Ess Kay

**[ARUN KUMAR TYAGI]
JUDGE**

Whether speaking / reasoned : Yes / No

Whether Reportable : Yes / No