

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

CWP No.7281 of 2015

Date of decision: 26.11.2019

Rajinder Singh and others

....Petitioners

Versus

State of Punjab and others

....Respondents

A N D

CWP No.8480 of 2015

Mukhtiar Singh and others

..Petitioners

Vs.

State of Punjab and others

..Respondents

**CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN
HON'BLE MR.JUSTICE SUVIR SEHGAL**

Present: Mr.Rahul Sharma-I, Advocate for the petitioners.

Mr.Amit Mehta, Sr.DAG Punjab.

Mr.R.K.Garg, Advocate for respondent No.3.

RAKESH KUMAR JAIN, J.(Oral)

This order shall dispose of two writ petitions bearing CWP Nos.7281 and 8480 of 2015 because common question of law is involved therein.

The petitioners have challenged the orders dated 21.3.2014 and 24.9.2014 passed by the Appellate Authority, setting aside the order dated 19.4.1995, passed in favour of the petitioners, under Section 11 (2) of

the Punjab Village Common Lands (Regulations) Act, 1961 (for short 'the Act').

In brief, learned counsel for the petitioner has submitted that application filed by the petitioner under Section 11 of the Act was allowed on 19.04.1995. The said order was challenged by the respondent-Gram Panchayat on 4.6.2011 after a gap of 16 years and 1 month. The delay was condoned on 16.05.2012. The said order was challenged by the petitioners by way of CWP No.1275 of 2013 and CWP No.25352 of 2012. The writ petitions were disposed of on 19.2.2013, remitting the matter back to the Appellate Authority to reconsider the question of delay and decide the case in accordance with law. After the remand, on 21.3.2014 the application for condonation of delay was allowed and on 24.9.2014 the main appeal was allowed.

Counsel for the petitioners has submitted that after the decision of the main appeal, the petitioners had applied for certified copy of the order dated 21.3.2014 on 26.2.2015 and was supplied the zimnie order (Annexure P-11) which read as under:

“After considering the written arguments of both the parties, the delay of Gram Panchayat is condoned. Separate written order to be issued. Case be presented for main arguments on 11.4.2014.”

Counsel for the petitioners has submitted that not only the detailed separate order was passed after the appeal was ultimately allowed on 24.9.2014 but also the jamabandi for the year 1987-88 which has been made the basis for deciding the issue that the land in dispute is *shamlat deh* and not owned by the petitioner, was not on record and in this regard, he has referred to the averments made by the petitioners in paragraph 7 of the writ

petition which has been admitted by the Gram Panchayat in its written statement.

Although the counsel for the State has produced the separate detailed order dated 21.3.2014 in the Court to contend that after the zimnie order was passed, separate detailed order had actually been passed but no answer is given by the respondents as to why the certified copy of the detailed order on the application for condonation of delay of 16 years 1 month in filing the appeal was not provided to the petitioners at that time and only the zimnie order was provided.

Counsel for the petitioners has also vehemently argued that they had inspected the record and could not find the jamabandi for the year 1987-88 on record.

Faced with the factual situation, counsel appearing on behalf the respondents have conceded that if there are mistakes committed by the Appellate Court, the order may be set aside and the matter be remitted back to the Appellate Authority to decide it again in accordance with law. Counsel for the petitioner has not raised any objection in this regard. Therefore, both these petitions are allowed and orders dated 21.3.2014 by which delay of 16 years 1 month has been condoned in filing of the appeal and order dated 24.9.2014 by which the appeal on merits has been allowed in favour of Gram Panchayat and against the petitioner are hereby set aside and matter is remanded back to the Appellate Authority to decide the application for condonation of delay and the main appeal again in accordance with law. Parties are directed to appear before the Appellate Authority to 14.01.2020. It is needless to mention that since much time has elapsed in deciding about the rights of the parties involved in this litigation,

the Appellate Authority is directed to decide the application for condonation of delay and the appeal, in case the delay is condoned, as early as possible but preferably within 3 months from the date of appearance of the parties before it.

While parting with this order, the Appellate Authority is directed to be careful in future while passing such type of orders, specially when the detailed order is not written on the same day when the zimnie order is passed, to write the detailed order separately because these type of mistakes bring unnecessary litigation to this Court which can be easily avoided.

(RAKESH KUMAR JAIN)
JUDGE

26.11.2019
Meenu

(SUVIR SEHGAL)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No