

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

**LPA No.933 of 2021 (O&M)
in CWP No.16949 of 2021
Date of Decision : 04.10.2021**

Jarnail Singh and another

...Appellants

Versus

State of Punjab and others

... Respondents

**CORAM:- HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH
HON'BLE MR. JUSTICE ASHOK KUMAR VERMA**

Present: Mr. Preetwinder Singh Dhaliwal, Advocate
for the appellants.

ASHOK KUMAR VERMA, J.

1. This appeal arises out of the judgment dated 01.09.2021 passed by the Single Bench of this Court whereby the writ petition challenging the eviction order dated 25.08.2010 (Annexure P-4), appellate order dated 29.02.2012 (Annexure P-5) and the letter dated 20.05.2021 (Annexure P-6) seeking eviction of the appellants from the houses, shops, shed etc. built on the gairmumkin land belonging to the Municipal Committee, Bhadaur, Tehsil and District Barnala-respondent no.4 filed by the appellants has been dismissed on the ground of delay and laches.

2. After gleaning insights into the paper-book, it transpires that the appellants alongwith one Ajaib Singh have been in possession of the houses,

shops, shed etc for the last many decades. It is the case of the appellants that their predecessor built the houses and started to reside therein alongwith their families. The appellants earlier filed suit for permanent injunction in the Civil Court at Barnala which was decided vide judgment dated 13.09.1979 passed by the trial court whereby the appellants were proved to be in possession but not to be in ownership of the property in question. However, the trial court restrained the Municipal Committee from interfering in the possession of the appellants, however, liberty was granted to the Municipal Committee to proceed against the appellants in accordance with law.

3. Thereafter on 03.08.1993, Municipal Committee, Bhadaur filed an application under Section 4 and 7(3) of the Punjab Public Premises and Land (Eviction and Rent Recovery) Act, 1973 for taking possession of the disputed land. On the said application, Collector-respondent No.3 passed order of eviction on 25.08.2010 and also imposed ₹ 18,000/- as damages. Against the said order, the appellants filed an appeal which was also dismissed vide order dated 29.02.2012 passed by the Deputy Commissioner, Barnala-respondent No.2. Municipal Committee-respondent No.4 issued a letter dated 20.5.2021 containing subject matter with regard to issuance of warrants of possession to respondent No.5-Tehsildar, Tapa District Barnala for taking the possession of the said houses, shops, shed etc. built on the gairmumkin land belonging to the Municipal Committee.

4. Aggrieved against the action of the official respondents, the appellants filed the aforesaid writ petition for setting aside order dated 25.08.2010 passed by respondent No.3, order dated 29.02.2012 passed by respondent No.2 and letter dated 20.05.2021 issued by respondent No.4.

The said writ petition was dismissed vide impugned order dated 01.09.2021 passed by the learned Single Judge of this Court. Aggrieved against the aforesaid order of the learned Single Judge, the appellants have filed the present appeal.

5. Learned counsel for the appellants, *inter alia*, submits that the learned Single Judge of this Court grossly erred in dismissing the writ petition on the ground of delay and laches. The eviction order dated 25.08.2010 was passed by respondent No.3-Collector and against that order, the appellants filed appeal before respondent no.2-Deputy Commissioner. The said appeal was dismissed vide order dated 29.02.2012 passed by the Deputy Commissioner and since then the appellants were in possession of the land in question and were residing therein without any hindrance. Neither any acquisition application was filed by respondent No.4-Municipal Committee against order dated 25.08.2010 passed by respondent No.2 nor any notice was issued to the appellants for eviction from the above said property. Now after a long period of 9 years, respondent No.4 suddenly issued letter dated 20.05.2021 to respondent No.5 seeking eviction of the appellants thereby demolishing their houses etc. No proper procedure has been adopted by respondent No.4 for execution of order dated 25.08.2010 passed by respondent No.3 and straightaway issued letter dated 20.05.2021 (Annexure P-6). Having aggrieved against this letter, the appellants immediately filed the aforesaid writ petition before this Court which has been dismissed by the learned Single Judge of this Court on the ground of delay and laches. Learned counsel also submits that the appellants are in peaceful possession since 1943 and even after passing the order of eviction dated 25.8.2010 and dismissal of their appeal vide order dated 29.02.2012,

they were never asked to vacate the land in question, except the letter dated 20.5.2021.

6. We have considered the submissions made by learned counsel for the appellants and gone through the paper-book.

7. We are not inspired by the submissions of the learned counsel for the appellants. Indisputably, in the civil suit, the appellants have not been able to prove their ownership over the property in dispute which is apparent from the findings of fact recorded by the trial court in its judgment dated 13.9.1979 (Annexure P-3). It is also not disputed that the eviction order dated 25.08.2010 (Annexure P-4) was passed by respondent No.3-Collector after hearing the appellants and even the appeal against the aforesaid eviction order (Annexure P-4) filed by the appellants was dismissed vide order dated 29.02.2012 (Annexure P-5) passed by respondent No.2-Deputy Commissioner. Thereafter, the appellants accepted the *litmus test* by not challenging the aforesaid orders dated 25.08.2010 and 29.02.2012 (Annexure P-4 and P-5, respectively) for the last about 9 years, meaning thereby the aforesaid orders attained finality. It is settled proposition of law that upon an order remaining unchallenged for a long period of time, it attains finality and upon attaining finality, it matters little as to whether it was erroneous unless it is demonstrated that the finding was obtained by fraud or due to lack of jurisdiction, which is not the case of the appellants herein. If a litigant accepts an order, he does it to his own prejudice and binds himself thereby.

8. In the present case, the appellants have approached the writ court after an inordinate delay of 9 years and that too, they have failed to show sufficient cause or explanation for such inordinate and huge delay.

The only explanations given by the appellants for the aforesaid delay in the present appeal are that the appellants are in peaceful possession for many decades and even after dismissal of appeal which have no legs to stand, in view of the facts that the appellants are not the owner of the property in dispute and against which, eviction order has already been passed way back in the year 2010 and the appeal has already been dismissed in the year 2012. The appellants chose to sleep over their right and got up from their deep slumber after a period of more than 9 years. As such the appellants were not vigilant over their rights as they have not swung into action expeditiously for relief after dismissal of their appeal and chose to standby and allowed things to happen resulting into issuance of seeking warrants of possession dated 20.05.2021 (Annexure P-6) for eviction of the appellants from the gairmumkin public property belonging to the Municipal Committee, Bhadaur, Tehsil and District Barnala. Under the garb of challenge to the order dated 20.05.2021 (Annexure P-6), the appellants are in fact trying to re-open the entire matter afresh after a period of 9 years which cannot be permitted. Re-opening the case at this belated stage would amount to open a pandora's box. It is a settled proposition of law that anyone who sleeps over his rights is bound to suffer and the Court cannot come to the rescue of such persons when they themselves are guilty of waiver and acquiescence. In this view of the matter, we are of the considered opinion that the writ court has rightly refused to exercise its jurisdiction under Article 226 of the Constitution of India on the bedrock of delay and laches.

9. Consequently, we find no merit in this appeal which is accordingly dismissed. Consequent upon dismissal of the appeal, application

for stay of the impugned orders i.e. CM No.2223/LPA of 2021 shall also stand disposed of accordingly.

(ASHOK KUMAR VERMA)
JUDGE

(AUGUSTINE GEORGE MASIH)
JUDGE

04.10.2021
MFK

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether Reportable</i>	<i>Yes</i>