

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

127

LPA No.244 of 2022 (O&M)
Date of Decision: May 2nd, 2022

Suraj Bhan and others

...Appellants

Versus

State of Haryana and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH
HON'BLE MR. JUSTICE SANDEEP MOUDGIL**

Present: Mr. Vipin Pal Yadav, Advocate
for the applicants-appellants.

AUGUSTINE GEORGE MASIH, J.

CM No.720-LPA of 2022

Prayer in this application is for placing on record the grounds of revision which was preferred before the Financial Commissioner.

Application is allowed subject to just exceptions.

Grounds of revision are taken on record.

LPA No.244 of 2022

Challenge in this appeal is to the order dated 11.02.2022 passed by the learned Single Judge, whereby rejection of the revision petition preferred by the appellants on the ground of delay vide order dated 11.02.2021 (Annexure P-5) challenging the *sanad taksim* issued on 29.08.2017 (Annexure P-2), stands upheld.

2. It is the contention of learned counsel for the appellants that the delay in filing the revision petition was because of the fact that the appellants are agriculturist and had proceeded on the advice of the counsel by filing an appeal challenging the order dated 29.08.2017 (Annexure P-2) passed by the Assistant Collector 2nd Grade, Badhra, before the Sub Divisional Officer (Civil)

exercising the powers of the Collector. It is after the dismissal of the appeal on 28.06.2019 being time barred leading to the filing of the revision before the Financial Commissioner. The delay having been amply explained, the Financial Commissioner should have given due weightage to the above aspect and condoned the delay as it was unintentional and no benefit would accrue to the appellants in delaying the process of the partition. The appellants, as a matter of record, had lost in the process of partition and the *sanad taksim* was not in accordance with law, which was being challenged.

Counsel has placed reliance upon the judgment of the Hon'ble Supreme Court in the case of ***Collector Land Acquisition, Anantnag and another Versus Mst. Katiji and others AIR 1987 Supreme Court 1353*** and the judgment of this Court in ***Anoop Singh and others Versus the State of Haryana and others 2008 (150) PLR 603***. He contends that the order of dismissal of the revision petition passed by the Financial Commissioner merely on the question of delay is unsustainable and, therefore, deserves to be set aside. The order passed by the learned Single Judge being contrary to the law laid down by the Hon'ble Supreme Court as well as this Court as referred to above also deserves to be set aside. Prayer has thus been made for setting aside the impugned order of the learned Single Judge and the order passed by the Financial Commissioner, Haryana and the case be remanded back to the said authority for fresh decision on merits.

3. We have considered the submissions made by the counsel for the appellants and with his assistance, have gone through the pleadings as also the impugned orders but do not find ourselves in agreement with the contentions as have been raised by the counsel for the appellants.

4. The facts as have been narrated above are not in dispute. However, it may be added here that on an application for partition of land measuring 123 *kanals* 11 *marlas* in *Khewat* No.20, *Khatoni* No.24 and 296 *kanals*, 19 *marlas* in *Khewat* No.21, *Khatoni* Nos.25 and 26 as per *jamabandi* for the year 2006-07, service was effected upon the parties. Mode of partition was prepared on 20.03.2012. After the mode of partition, *naksha kha* was prepared, where the appellants absented themselves. The said *naksha* was confirmed on 29.08.2017 and *sanad taksim* was prepared on the same day. On 31.10.2017, the file was consigned to the record room. After the appellants came to know about the finalization of the partition and preparation of the *sanad taksim*, they filed an appeal before the Collector, Badhra, who vide order dated 28.06.2019 proceeded to dismiss the same being barred by limitation. It is thereafter that a revision petition was preferred by the appellants, which had been dismissed by the Financial Commissioner vide order dated 11.02.2021 on the ground that the said revision petition having been filed after the period for filing the same having expired was barred by limitation as the appellants had approached the Financial Commissioner after a period of almost two years from the date of passing of the order by the Assistant Collector 2nd Grade, Badhra.

5. It is a settled proposition of law that no appeal lies against the order of partition and issuance of the *sanad taksim* and the only remedy available is by way of a revision petition before the Financial Commissioner. The revision petition has been filed after an inordinate delay which is unexplained except for the fact that an appeal had been preferred. The Financial Commissioner proceeded to dismiss the same on the grounds of delay. Not only this, the Financial Commissioner had

further observed that keeping in view the fact that the exchange of possession between the parties has already taken place, no interference at the belated stage was called for. It was also observed that no patent illegality or legal infirmity has been pointed out by the counsel for the appellants while impugning the order of *sanad taksim*.

6. In the light of the above facts, it cannot be said that the Financial Commissioner has merely dismissed the revision petition on the ground of delay alone, rather it has gone through the impugned orders and has found them to be such which would not indicate patent illegality or legal infirmity which would call for interference by the revisional authority. The contention, therefore, of the counsel for the appellants that the Financial Commissioner, Haryana, has dismissed the revision petition on limitation alone is unsustainable.

7. The judgments on which reliance has been placed by learned counsel for the appellants would not be of any help to the appellants as in the judgment of the Division Bench of this Court in Anoop Singh's case (*supra*), it was a case where the Financial Commissioner had dismissed the revision petition merely on the ground of delay which is not the factual position here as is apparent from the perusal of the impugned order dated 11.02.2021 of the Financial Commissioner. As regards the judgment in Mst. Katiji's case (*supra*), suffice it to say, that it was a case where enhancement of the compensation had been claimed wherein there had occurred a delay in filing the appeal and that too four days beyond the time provided for. With such a small period of delay, the Court had proceeded to interfere finding it a case where sufficient cause has been projected for exercising its powers for condoning the delay. The said judgment again

would not, therefore, come to the rescue of the appellants where there is not only a question of delay of more than two years but on merits also, there was no ground made out by the revisional authority to interfere.

8. Another aspect which needs to be mentioned here is that, the appeal which the appellants claim they have filed was also dismissed for delay and laches. This shows that the appellants have been negligent and careless in availing their remedy which, they believed to be available to them.

9. In view of the above, finding no merit in the present appeal, the same stands dismissed.

10. In the light of the dismissal of the appeal, pending application stands disposed of as infructuous.

**(AUGUSTINE GEORGE MASIH)
JUDGE**

May 2nd, 2022
Puneet

**(SANDEEP MOUDGIL)
JUDGE**

Whether speaking/reasoned: Yes

Whether Reportable: No