

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-10814-2019 (O&M)
Date of decision : 09.05.2022

Joginder Singh

.....Petitioner

Versus

Joint Development Commissioner (IRD) Punjab and others

....Respondents

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

Present: Mr. N.P.S. Mann, Advocate
for the petitioner.

Mr. Pankaj Gupta, Addl. A.G., Punjab.

Mr. Sapan Dhir, Advocate
for respondent No.4.

AUGUSTINE GEORGE MASIH, J. (ORAL)

CM-13303-CWP-2019

Prayer in this application is for placing on record
Annexures P-23 to P-27.

For the reasons mentioned in the application, same is allowed.
Documents Annexures P-23 to P-27 are taken on record, subject to just
exceptions.

CWP-10814-2019

It is the contention of learned counsel for the petitioner that on
30.05.2018, when the appeal under Section 11(2) of the Punjab Village
Common Lands (Regulation) Act 1961, came up for hearing before the Joint
Development Commissioner, exercising the powers of the Commissioner,
arguments of the counsel for the parties were heard on the matter of delay

and the next date of hearing i.e. 20.06.2018 was fixed for orders on matter of delay but on the said date the Court was not held and the case was adjourned to 11.07.2018, which was subsequently again adjourned to 01.08.2018, on which date, the order which has been passed which is not dealing with the question of the delay, rather the Appellate Authority has proceeded to decide the case on merits but without giving an opportunity of hearing to counsel for petitioner or the counsel for the Gram Panchayat. The said order, in the light of the above, cannot sustain.

Learned counsel for the Gram Panchayat has maintained the factum that in the impugned order passed by the Joint Development Commissioner, exercising the powers of the Commissioner dated 01.08.2018, there is a mention of the fact that the application for delay has already been allowed. The said aspect, as a matter of fact, could not be brought to the notice of this Court by either of the parties as to when the order for condoning the delay has been passed by the said authority.

In the light of the above factual position, this Court is left with no other option but to proceed on the assumption that there has not been any order passed by the competent authority in pursuance to the order dated 30.05.2018 (Annexure P-7) passed by the Appellate Authority. The subsequent order dated 01.08.2018, which is said to be an order on merits is, therefore, not sustainable and is set aside for the reason that the same has been passed without giving an opportunity of hearing to the petitioner or the Gram Panchayat as there is nothing on the record to indicate that the counsel for the parties had been given an opportunity to address the Appellate Authority on merits of the case.

In the light of the above, the impugned order dated 01.08.2018 (Annexure P-8) is hereby set aside and the present writ petition stands allowed. The case is remanded back to the Appellate Authority for fresh decision on the question of entertaining the application for condonation of delay in preferring the appeal in accordance with law preferably, within a period of one month from the date of first appearance of the counsel along with their parties, which is fixed as 01.06.2022.

In case the application for condonation of delay is allowed, the appeal shall be decided by the Appellate Authority within a period of two months from the date of decision on the application of delay.

It goes without saying that the appellate authority shall proceed to pass appropriate orders in accordance with law after giving an opportunity of hearing to the counsel for the parties.

(AUGUSTINE GEORGE MASIH)
JUDGE

May 9th, 2022
ps-I

(SANDEEP MOUDGIL)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No