

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

**CWP-14628-2022
Date of Decision: 31.08.2022**

Sukhdeep Singh

..... Petitioner

Versus

State of Punjab and others

..... Respondents

**CORAM: HON'BLE MRS. JUSTICE LISA GILL
HON'BLE MR. JUSTICE HARSH BUNGER**

Present: Mr. Kuldip Singh Chaudhary, Advocate,
for the petitioner.

Mr. K.S. Kang, Senior DAG, Punjab.

Mr. Parvinder Singh, Advocate,
for respondent No.5.

LISA GILL J. (ORAL)

Present writ petition has been filed for quashing of order dated 19.04.2022 (Annexure P-8) passed by the Commissioner Panchayat Lands for SAS Nagar and Rupnagar, Department of Rural Development and Panchayat, Punjab (respondent No.2), whereby the petitioner's application for restoration of Appeal dated 04.02.2021 (Annexure P-5) has been dismissed for non-prosecution on 22.02.2022.

It is submitted by learned counsel for the petitioner that petition under Section 7 of the Punjab Village Common Lands (Regulation) Act,

1961 was filed by respondent No.5 in complete violation of the provisions of law, claiming that the petitioner along with others are in illegal possession of *Shamlat* land. This petition was allowed by the Collector (Panchayat Land)/District Development and Panchayat Officer (DDPO), Patiala (respondent No.3) vide order dated 08.01.2021 (Annexure P-4) while ignoring the applicable provisions of law, facts and circumstances. Appeal No.61 of 2021 was filed by the present petitioner and others on 04.02.2021 (Annexure P-5) challenging order dated 08.01.2021 (Annexure P-4). This appeal was dismissed in default by the Commissioner Panchayat Lands for SAS Nagar and Rupnagar, Department of Rural Development and Panchayat, Punjab (respondent No.2) on 22.02.2022 by recording that neither the appellant nor his counsel had appeared for the last nearly six times and that even on 22.02.2022, the counsel did not appear online or physically nor the appellant appeared in person.

Learned counsel for the petitioner submits that application for restoration of the appeal was filed immediately on 09.03.2022 on coming to know about passing of order dated 22.02.2022. He further submits that on 22.02.2022, the counsel for the appellant could not appear physically before the concerned Court due to outbreak of pandemic Covid-19 and online appearance was also not possible due to technical glitches, which led to this situation. Petitioner, it is submitted should not be made to suffer for the circumstances which were beyond his control and caused due to the outbreak of pandemic Covid-19. Non-appearance of counsel was not due to any negligence and neither wilful. Moreover application for restoration of appeal was filed by the petitioner without any delay, therefore, it would be

appropriate to set aside order dated 19.04.2022 (Annexure P-8) and restore the appeal filed by the petitioner and others and decide the same on merits.

Respondent No.5 was proceeded *ex parte* in the present writ petition on 23.08.2022. However, Mr. Parvinder Singh, Advocate appears today on behalf of respondent No.5 and submits that non-appearance was due to an inadvertent mistake and was unintentional, and not due to any negligence, therefore order dated 23.08.2022 be recalled to the extent that respondent No.5 is proceeded *ex parte* and he be permitted to join proceedings. Learned counsel for the petitioner does not oppose the oral request addressed. Accordingly on oral request, order dated 23.08.2022 is recalled to the extent that respondent No.5 is proceeded *ex parte*. He is permitted to join proceedings.

Mr. Parvinder Singh, Advocate, files power of attorney on behalf of respondent No.5 which is taken on record, subject to just exceptions.

Learned counsel for the respondents are unable to deny that in February, 2022, fresh wave of pandemic Covid-19 had overwhelmed this region. Furthermore application for restoration was filed within a few days of dismissal of appeal. In the given circumstances we are of the considered opinion that petitioner should not be made to suffer the consequences, even if due to any fault on the part of his counsel and that appeal should be heard on merits rather than be dismissed on technical consideration of delay.

Accordingly, order dated 19.04.2022 (Annexure P-8) is set aside. Appeal No.61 of 2021 (Annexure P-5) is restored to its original number to be heard by the Commissioner Panchayat Lands for SAS Nagar and Rupnagar, Department of Rural Development and Panchayat, Punjab

(respondent No.2) in accordance with law.

Writ petition is disposed of accordingly.

(LISA GILL)
JUDGE

31.08.2022
Apurva

(HARSH BUNGER)
JUDGE

1. Whether speaking/reasoned : Yes/No
2. Whether reportable : Yes/No