

113

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

**LPA-914-2022
Date of Decision : 09.11.2022**

Om Parkash Bhardwaj and others

..... Appellants

Versus

State of Haryana and others

..... Respondents

**CORAM : HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH
HON'BLE MR. JUSTICE VIKRAM AGGARWAL**

Present : Mr. Munish Gupta, Advocate
for the appellants.

VIKRAM AGGARWAL, J

The appellants have preferred the present Letters Patent Appeal against the order dated 05.09.2022, passed by the learned Single Bench, vide which the writ petition filed by the appellants was dismissed on the ground of delay and laches.

The facts, briefly put are that the appellants filed a writ petition seeking the quashing of orders dated 23.08.2018 (Annexure P-21), passed by the Financial Commissioner, Haryana in R.O.R. No.247 of 2013-14, titled as *Om Prakash & Others v. Rama Nand & Others*, vide which the petition, preferred by the appellants assailing the mode and manner of partition of joint property of the parties was rejected. They also sought setting aside of orders dated 07.11.2013 (Annexure P-19), passed by the Divisional Commissioner, Gurugram and order dated 08.08.2012 (Annexure

P-17), passed by the Sub Divisional Officer-cum-Collector-Pataudi, Gurugram, vide which appeals and revisions filed by the appellants against the orders dated 16.05.2012 (Annexure P-15), passed by the Assistant Collector 2nd Grade, Pataudi, were rejected. A writ of Mandamus seeking a direction to respondent No.1 to remand the entire matter for carrying out all proceedings afresh was also sought.

The learned Single Judge dismissed the writ petition by observing that the impugned order had been passed on 23.08.2018 and there was no valid explanation for the delay in filing the writ petition and the writ petition was, therefore, bad on account of delay and laches.

Aggrieved by the impugned order, the present Latters Patent Appeal has been preferred.

We have heard Sh.Munish Gupta, learned counsel for the appellants.

Learned counsel has submitted that the learned Single Judge has erred in dismissing the writ petition. It has been contended that though the order impugned in the writ petition (Annexure P-21) had been passed on 23.08.2018, the appellants were well within their right to challenge the same since no period of limitation has been prescribed for filing of a writ petition and if the writ petition is filed within the period of limitation prescribed for filing a civil suit, it should not be dismissed on the ground of delay and laches. In support of his contention, learned counsel has referred to the observations of the Hon'ble Apex Court in para No.16 of the judgment in **Banda Development Authority, Banda vs. Moti Lal Agarwal and others** **2011 (5) SCC 394.**

Learned counsel has further contended that after the onset of

the COVID 19 Pandemic, the petitions could not be filed by the litigants in time, as a result of which the limitation was extended by the Hon'ble Apex Court from time to time. It has been contended that in the order dated 10.01.2022, passed by the Hon'ble Apex Court in **Suo Motu Writ Petition (C) No.3 of 2020**, the Hon'ble Apex Court had directed that the period from 15.03.2020 to 28.02.2022 would stand excluded for the purposes of limitation. It has been contended that in view of the same, the learned Single Judge erred in dismissing the writ petition on the ground of delay and laches.

We have considered the submissions made by learned counsel for the appellants but are unable to agree to the same. The impugned order (Annexure P-21) was passed as far back as on 23.08.2018 by respondent No.1. For reasons best known to them, the appellants chose not to challenge the same till September, 2022 when they filed the writ petition in question. Even in the writ petition, no reason, whatsoever, has been given for the delay in filing the same. There is no averment in the entire writ petition as to what prevented the appellants from filing the writ petition in a reasonable time. The judgment relied upon by the learned counsel in **Banda Development Authority, Banda (supra)** does not help the appellants in any manner. The question which arose for the kind consideration of Hon'ble Apex Court in that matter was whether the Division Bench of the Allahabad High Court was justified in entertaining and allowing the writ petition, filed by respondent No.1 therein for nullifying the acquisition of land by the State Government on the ground of non-passing of award within the time prescribed under Section 11-A of the Land Acquisition Act, 1894.

While discussing the various aspects of the matter, the Hon'ble Apex Court

observed in para No.16 of the said judgment as under:-

“It is true that no limitation has been prescribed for filing a petition under Article 226 of the Constituion but one of the several rules of self imposed restraint evolved by the superior courts is that the High Court will not entertain petitions filed after long lapse of time because that may adversely affect the settled/crystallized rights of the parties. If the writ petition is filed beyond the period of limitation prescribed for filing a civil suit for similar cause, the High Court will treat the delay unreasonable and decline to entertain the grievance of the petitioner on merits.

xxx xxx xxx xxx”

Infact the Hon'ble Apex Court went on to allow the appeal and it set aside the impugned order and dismissed the writ petition, filed by respondent No.1 therein. While doing so, the Hon'ble Apex Court observed in para No.25 as under:-

“In this case, the acquired land was utilised for implementing Tulsi Nagar Residential Scheme inasmuch as after carrying out necessary development i.e. Construction of roads, laying electricity, water and sewer lines etc. the BDA carved out plots, constructed flats for economically weaker sections and lower income group, invited applications for allotment of the plots and flats from general as well as reserved categories and allotted the same to eligible persons. In the process, the BDA not only incurred huge expenditure but also created third party rights. In this scenario, the delay of nine years from the date of publication of the declaration issued under Section 6(1) and almost six years from the date of passing of award should have been treated by the High Court as more

than sufficient for denying equitable relief to respondent No.1.”

The order dated 10.01.2022, passed by the Hon'ble Apex Court (supra) also does not come to the aid of appellants because firstly, as observed earlier, the appellants have not disclosed any reason, whatsoever, in the writ petition for the delay in filing the writ petition. Further even after the said period (15.03.2020 to 28.02.2022) had elapsed, the writ petition was filed in September, 2022. It is, therefore, clear that the appellants have been extremely casual in pursuing their remedies. No error was, therefore, committed by the learned Single Judge in dismissing the writ petition on the ground of delay and laches.

In view of the above, we do not find any merit in the present appeal and the same is hereby dismissed.

(AUGUSTINE GEORGE MASIH)
JUDGE

(VIKRAM AGGARWAL)
JUDGE

09.11.2022
mamta

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