

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

Sr. No.124

**Civil Writ Petition No.28552 of 2022
Date of Decision : December 12, 2022**

Amar Pal and others

...Petitioners

Versus

Union of India and others

...Respondents

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. B.S. Rana, Senior Advocate with
Mr. Nayandeep Rana, Advocate,
for the petitioners.

SUDHIR MITTAL, J. (ORAL)

The petitioners had filed a petition under Section 77 (3) (d) of the Punjab Tenancy Act, 1887 read with Section 5(1)(a) and 5(2) of the said Act for declaration of status of occupancy tenant. The Assistant Collector Ist Grade allowed the petition but the order was reversed by the Collector in an appeal filed by the State. Once again, the Assistant Collector Ist Grade passed an order in favour of the petitioners. Again, the appeal filed by the State was allowed and revision filed by the petitioners against the order of the Collector was dismissed. The revisional order was challenged by way of a civil suit which failed. Further, appeal also failed. Thereafter, a revision was filed before the Financial Commissioner which has been dismissed on the ground of limitation. Thus, the present writ petition has been filed.

Learned Senior counsel for the petitioners submits that the petitioners were pursuing an alternative remedy bona fide and in accordance with the legal opinion received by them. Thus, the benefit of Section 14 of

the Limitation Act, 1963 should have been given to them. Having not done so, the order of the Financial Commissioner is not sustainable in law.

The submission is not entitled to be accepted keeping in view the time line of the case. The Commissioner had dismissed the revision petition against the appellate order vide order dated 20.01.2009. No further proceedings were initiated by the petitioners against the said order for a period of two and a half years. Civil suit was instituted on 18.07.2011. Thus, the submission that delay was caused on account of pursuance of an alternative remedy in accordance with bona fide legal advice cannot be accepted. The fact that the petitioners kept quiet for two and a half years itself shows that they had lost interest in the matter. Apparently, somebody advised them to file a civil suit and limitation of three years being available, they decided to avail the said remedy also by way of a gamble.

In view of the above reasons, the writ petition has no merit and is dismissed.

December 12, 2022

Ankur

**(SUDHIR MITTAL)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No