

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

**101**

**CWP-8372-2019**

**Date of Decision : January 30, 2023**

**RAMJI DASS**

.....Petitioner

***VERSUS***

**STATE OF PUNJAB AND OTHERS**

.....Respondents

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR  
HON'BLE MR. JUSTICE KULDEEP TIWARI**

Present: Mr. Surjit Singh Swaich, Advocate  
for the petitioner.

Ms. Monika Jalota, Sr. DAG, Punjab.

Mr. Anil Kumar Sharma, Advocate  
for the respondent No.4.

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**SURESHWAR THAKUR, J. (ORAL)**

1. The petitioner had preferred a petition, under Section 11 of the Punjab Village Common Lands (Regulation) Act, 1961, (hereinafter referred to as the 'Act' for short), before the learned Collector concerned, claiming therein a declaratory decree, that he be pronounced as owner in possession of the suit land. The decision on the said petition was made on 05.02.2008, wherethrough, it became decreed. However, though the Gram Panchayat Basantpura was well aggrieved from the decreeing of the petitioner's petition by the learned Collector concerned, but, despite occurrence of an elongated span of about 5½ years from the making of the decision (supra), rather no appeal was made thereagainst, by the Gram Panchayat concerned, before the Appellate Court concerned.

2. The affirmative decree, as made on File No.DDDP(II) Rajpura-994, by the learned Collector concerned, rather became ultimately appealed

before the learned Appellate Authority, at the instance of the Gram Panchayat concerned. The said appeal bearing No.51 of 2013, though however became instituted before the learned Appellate Court concerned, but, prima facie with an excessive delay. Though, the above appeal was cast before the Appellate Authority concerned, with much time elapsing since the making of the order, by the learned Collector concerned, on 05.02.2008, upon File No.DDDP(II) Rajpura-994, therefore, since the said appeal was prima facie beyond the prescribed period of limitation hence for its becoming well constituted. Thus, until an affirmative order became made upon the application for condonation of delay, but, prior to Appeal No.51 of 2013 becoming registered, thus, the assigning of a docket number to the above appeal, besides, the subsequently drawn affirmative verdict thereon(s), may have then become valid. Contrarily, the Appellate Authority, without initially deciding the application for condonation of delay, yet, assigned a docket number to the said appeal, and, also thereafter allowed the statutory appeal concerned.

3. Therefore, but naturally, the petitioner herein became aggrieved from the order made on 19.03.2015, upon Appeal No.51 of 2013, by the learned Appellate Authority concerned, and, through his instituting Civil Writ Petition No.11442 of 2015, he cast a challenge thereto. This Court on 02.11.2015, while allowing the above writ, made the hereinafter extracted directions, upon the respondent concerned, and, as become carried in paragraph 7 thereof, paragraph whereof becomes extracted hereafter:-

*“In this view of the matter and for the reasons aforesaid, we allow this writ petition; set aside the order dated 19.03.2015 and remit the case to the first respondent, namely, the Appellate Authority to decide firstly the application for condonation of delay and if the prayer of Gram Panchayat is accepted, then to decide the appeal on merits, in accordance with law. The petitioner is also permitted to file his reply to the application for*

*condonation of delay before passing any order on that application. It shall be appreciated if the matter is decided by the Appellate Authority within a period of six months.”*

4. A reading of the above extracted paragraph, reveals that this Court had set aside the above order, as made by the Appellate Authority concerned, and, had remanded the lis to the Appellate Authority concerned, to initially make a decision upon the application for condonation of delay, and, if an affirmative order is made thereon, to thereafter, in accordance with law, make a decision upon the above stated appeal. In pursuance to the above order of remand, as made by this Court, upon the respondent concerned, the Appellate Authority has drawn an order, as carried in Annexure P-13. Though, a reading of the said order, reveals that the application of the Gram Panchayat concerned, seeking condonation of the relevant period of delay, became allowed, but yet, no speaking reasoned orders have been made therein. Nonetheless, yet, the Appellate Authority concerned has elaborately discussed the reasons, as prevailed upon it, for allowing the said application, but, only while making a decision on the merits of the said appeal.

5. Be that as it may, the learned counsel appearing for the petitioner, has yet argued that, the Appellate Authority concerned, did not yet consider the objector's reply, or, the apposite objections against the allowing of the application, cast under Section 5 of the Limitation Act. Resultantly he contends that though, the Appellate Authority concerned was bound, under law, to not only frame issues in respect of the relevant contentions, but, also was required to permit them to adduce their respective evidences thereon, but yet, the Appellate Authority concerned, did not choose to do so.

6. Though, the learned State counsel has argued that, since this Court in paragraph (supra) of its verdict, did not make the above mandate upon the respondent concerned, therefore, the above exercise was not required to be

undertaken. However, the above contention is rejected as, even if this Court, had not in express terms, made the above direction qua the remandee court to strike issues on the contentious pleadings of the litigants concerned nor has made any explicit directions qua thereons, the litigants concerned, becoming permitted to adduce their evidence(s). Nonetheless, it was, but expected, from the learned Appellate Court to, on the contentious pleadings of the contesting litigants, frame the relevant issues, and, to also thereafter permit them, to adduce their evidence(s) thereon.

7. It is, but in the event of the above not being done, that the petitioner herein has challenged the above orders, as made on application for condonation of delay, and, as also made on the main appeal bearing No.51 of 2013. Necessarily, since, as above stated, this Court discovers the above fallacy in the impugned orders, thereupon, the impugned orders, as carried in Annexure P-13, and, P-14, are both quashed and set aside. However, the learned Appellate Court concerned, is directed to initially make a reasoned order on the application for condonation of delay, but, only after striking issues on the contentious pleadings, and, thereafter, shall permit the litigants concerned, to adduce their respective evidence(s) thereon. After the application for condonation of delay becomes allowed by the learned Appellate Court, subsequently, the Appeal bearing No.51 of 2013 shall be restored to its original number, and shall, in accordance with law, be decided, but, only through a speaking decision being made thereon, and, only after hearing all affected persons concerned.

8. The above exercise be ensured to be completed within 6 months from today.

9. If the pleadings, on the application for condonation of delay, at

the instance of any litigant concerned are not complete, the same may be permitted to be completed at their respective instances.

10. Disposed of accordingly.

**(SURESHWAR THAKUR )  
JUDGE**

**(KULDEEP TIWARI)  
JUDGE**

**January 30, 2023**  
devinder

**Whether speaking/reasoned: Yes/No**  
**Whether reportable: Yes/No**