

217-A

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-26408-2017 (O&M)

Date of decision:11.05.2023

JOGINDER SINGH AND ANOTHER

...Petitioners

Versus

DIRECTOR, RURAL DEVELOPMENT AND PANCHAYAT DEPARTMENT,
PUNJAB AND OTHERS

...Respondents

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

Present: Mr. Rajesh Sabharwal, Advocate for the petitioners.

Mr. Maninder Singh, DAG, Punjab

Mr. Rai Singh Chauhan, Advocate
for respondent No.3-Gram Panchayat.

SURESHWAR THAKUR, J. (ORAL)

1. One Joginder Singh instituted a petition under Section 11 of The Punjab Village Common Lands (Regulation) Act, 1961, claiming therein the assigning of a declaratory decree to him, in respect of the petition lands. The above petition was filed before the learned Additional Deputy Commissioner (Development)-cum-Collector, Hoshiarpur. However, a dismissal verdict dated 18.01.2017 (Annexure P-7) was made, upon the above suit.

2. The aggrieved therefrom plaintiff Joginder Singh reared thereagainst a statutory appeal bearing No.57 of 2017. However, the said raised statutory appeal before the competent Appellate Authority concerned, was time barred, as such a separate application along with the said statutory appeal, cast under Section 5 of the Limitation Act, thus became appended therewith. The learned Appellate Authority concerned, without initially deciding the said application, as cast under Section 5 of the Limitation Act, and, that too without inviting pleadings from the contesting litigants, and, thereafter without striking

issues on such pleadings, and, obviously without permitting the litigants concerned, to adduce evidence thereons, rather, has within the said statutory appeal, after refusing to condone the delay thus proceeded, to make a decision, thus concurring with the decision, as became initially recorded by the learned Collector concerned, through Annexure P-7. It is but the above failure of exercising jurisdiction, on the application cast under Section 5 of the Limitation Act, as became appended along with the statutory appeal, which thus has caused gross miscarriage of justice.

3. Therefore, for undoing exercising of jurisdiction, thus with a material illegality, and, gross impropriety, this Court deems it fit, and, appropriate to quash Annexure P-7, and, to thereafter make an order of remand, upon the competent Appellate Authority concerned, to after inviting pleadings from the contesting litigants, on the application, as, cast under Section 5 of the Limitation Act, to thereafter frame issues thereon, and, subsequently permit the litigants concerned, to adduce evidence thereon. After a lawful decision becomes made on an application, as, cast under Section 5 of the Limitation Act, the learned Appellate Authority concerned, may thereafter proceed to restore, the appeal to its original number, and, thereafter may proceed to pass a fresh decision thereons, but in accordance with law.

4. All the above exercise(s) be done within four months from today. The parties are directed to record their appearance(s) either personal or through their authorized counsel before the competent Authority on 19.05.2023.

5. Disposed of accordingly.

6. Pending miscellaneous application(s), if any, stand(s), disposed of.

(SURESHWAR THAKUR)
JUDGE

(KULDEEP TIWARI)
JUDGE

11.05.2023

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