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

CWP-18310-2023

Date of Decision : 22.08.2023

GURDEV SINGH (SINCE DECEASED) THROUGH HIS LRS AND
OTHERSPetitioners

Versus

JOINT DEVELOPMENT COMMISSIONER (IRD) RURAL
DEVELOPMENT AND PANCHAYAT DEPTT, PUNJAB AND ORS.
....Respondents

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

Present : Mr. R.S.Chauhan, Advocate and
Mr. Balam Singh, Advocate
for the petitioners.

Ms. Monika Jalota, Sr. DAG, Punjab.

SURESHWAR THAKUR, J. (Oral)

1. Case No. (7)649/DDPO became instituted in the year 2012 at the instance of the Gram Panchayat, Village Diyagarh and Raudgarh, Block Patiala, District Patiala through its Sarpanch Smt. Balbir Kaur, thus before the Collector concerned, exercising jurisdiction under Section 7 of the Punjab Village Common Lands (Regulation) Act, 1961.

2. In the said petition became impleaded certain respondents, and against the said respondents a decree of eviction was claimed from the petition lands. Through a decision (Annexure P-5) as made on the above case, thus the Collector concerned, decreed the petition.

3. The aggrieved from Annexure P-5, preferred a statutory appeal before the competent appellate authority concerned. However, the said appeal was time barred. Therefore, alongwith the said statutory appeal

became appended an application under Section 5 of the Limitation Act, 1963 seeking condonation of delay of 654 days, as had occurred in the making an appeal against Annexure P-5, before the competent appellate authority concerned.

4. The aggrieved-appellants from Annexure P-5, had in the said application for condonation of delay, did prima facie, well explicate the delay which had occurred in theirs making an appeal against Annexure P-5 before the competent Appellate Authority concerned, but a reading of the decision as made on the said application, reveals that in a hasty and slipshod manner, rather the appellate authority concerned, thus declined the asked for relief on the said application.

5. The manner of adjudication being made, upon, the said application by the appellate authority concerned, is required, to be deprecated, as it became enjoined to after inviting response(s) from the Gram Panchayat concerned, to thereafter strike issues on the apposite pleadings, besides subsequently became enjoined, thus to ensure that evidence on the said struck issues becomes adduced by the litigant(s) concerned. The above would have ensured that an adequate opportunity of hearing becomes granted to the aggrieved from Annexure P-5.

6. Paramountly since the above did not happen. Therefore, as stated (supra), but in an slipshod and hasty manner besides with an ill informed reason, the application for condonation of delay appended with the statutory appeal, rather became dismissed.

7. Consequently, the petition is allowed and the impugned order Annexure P-13 is quashed and set aside. The appellate authority concerned, is directed to restore the said application and the appeal(s) to their respective original number(s), and, it is further directed that after inviting a response on the application for condonation of delay from the Gram Panchayat concerned, to thereafter strike issues, and to subsequently permit the aggrieved litigant(s) concerned, to adduce evidence thereons. Subsequently, a valid decision, in accordance with law, shall be made on the said condonation of delay application. If the condonation of delay application is allowed, subsequently the appellate authority concerned, shall proceed to make a speaking decision, in accordance with law, upon, the apposite statutory appeal.

8. The entire exercises (supra), are directed be ensured to be completed within six months from today but after hearing all affected persons concerned.
9. Till the order of this Court is transmitted or received by the competent appellate authority concerned, thereupto the warrants of possession, as became issued in respect of the petitioners estates shall not be enforced. However, the aggrieved litigant(s) concerned may on notice of the application or on notice of the appeal being served upon them, thus may prefer to file an application seeking stay of enforcement of warrants of possession, and, on such an application, valid orders be passed by the appellate authority concerned.

(SURESHWAR THAKUR)
JUDGE

(KULDEEP TIWARI)
JUDGE

22.08.2023

kavneet singh

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