

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

LPA-995-2022 (O & M)
Date of Decision: 16.01.2023

Bhajan Singh

.....Appellant(s)

Versus

Financial Commissioner (Revenue), Punjab and others

....Respondent(s)

**CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA
HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN**

Present: Mr. Surinder Garg, Advocate,
for the appellant.

G.S.SANDHAWALIA, J. (Oral)

C.M. Nos.2384-85-LPA of 2022

Applications for condonation of delay of 4 days in filing the appeal and 10 days in refiling the appeal are allowed, in view of averments made in the applications and in view of the nominal delay.

Delay of 4 days in filing the appeal and 10 days in refiling the appeal is condoned.

C.Ms. stand disposed of.

LPA-995-2022 (O & M)

The present appeal is directed against the order of the learned Single Judge dated 16.08.2022 passed in CWP No. 6144 of 2019 whereby, the writ petition was dismissed on the ground of delay and laches while noticing that it was filed on 05.03.2019 whereas the impugned order passed by the Financial Commissioner was dated 07.09.2016. Accordingly, the learned Single Judge came to the conclusion that being a partition dispute, the appellant should have challenged the impugned order immediately or within a

Counsel has tried to convince us that the delay is not inordinate as such and the learned Single Judge should have interfered with the order of the Financial Commissioner on account of the fact that statement was recorded against his interest by his brother Jeet Singh on 28.06.2012 and, thus, he had the *locus standi* as such to challenge the proceedings.

A perusal of the paper book would go on to show that the Financial Commissioner, on 07.09.2016 (Annexure P-10), had dismissed the revision petition under Section 16 of the Punjab Land Revenue Act, 1887, which had been filed against the order dated 01.06.2012 whereby the *Naksha Bey* had been prepared and the order dated 28.06.2012 whereby, no objection had been recorded by the counsel for the respondents and the appellant was one of the said respondents. The *Naksha Zeem* had accordingly been approved and *Sanad Takseem* had to be prepared. The said orders were subject matter of challenge before the Commissioner, Faridkot, which was dismissed on 10.04.2014 (Annexure P-8) and the ground had been taken that earlier Jeet Singh, the brother, had been looking after the case property but he had hatched conspiracy with the respondents and he had agreed to carve out the passage.

The Commissioner, Faridkot Division had come to the conclusion that the proceedings were not maintainable as the Instrument of Partition had already been issued and *Sanad Takseem* had been prepared. Resultantly, the matter had been taken to the Financial Commissioner, who had noticed on 07.09.2016 (Annexure P-10) that warrant of possession had been issued and possession had also been taken by the respondents. It has also been noticed that Jeet Singh, the real brother, had made a statement to

the same effect and the respective parties have taken possession of the respective *taks* and, therefore, the final order of partition was fair and just.

As noticed, it was a matter of partition as such and the possession had already been disturbed but the appellant chose not to file the writ petition till 05.03.2019, which is a serious lacuna as such as partition proceedings had already been finalized and parties would have improved the land which was in their possession and relying upon the finalization of partition proceedings. The argument as such raised that the brother was inimical also does not carry much weight. Apparently, the other two brothers also were satisfied with the arrangement made and their counsels had made a statement on 28.06.2012 that they have no objection to the *Naksha Zeem*. It is to be noticed that on a prior occasion, all the three brothers including the present appellant alongwith others had filed an appeal before the Court of Commissioner, Faridkot, who set aside the order dated 30.03.2010 passed by the Collector at that point of time.

In such circumstances, the allegations made at a belated stage that the brother had no authority as such is without any basis as the appellant was also represented by the counsel. They were litigating together at one point of time and nothing has been shown to us that separate counsel had been engaged subsequently and the statement was made without any authority as such.

In such circumstances, we are of the considered opinion that the learned Single Judge was justified in declining to exercise his extra ordinary writ jurisdiction in the peculiar facts and circumstances of the case.

Accordingly, the appeal stands dismissed in *limine*.

(G.S. SANDHAWALIA)
JUDGE

16.01.2023
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(HARPREET KAUR JEEWAN)
JUDGE

Whether reasoned/speaking
Whether reportable

Yes
No