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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-20332-2023

Date of decision:14.09.2023

BALWINDER SINGH AND OTHERS

...Petitioners

Versus

STATE OF PUNJAB AND OTHERS

...Respondents

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

Present: Mr. Ashok Singla, Advocate
for the petitioners.

Ms. Lavanya Paul, DAG, Punjab.

SURESHWAR THAKUR, J. (ORAL)

1. Gram Panchayat, Village Durad, Tehsil and District Patiala through its Administrator Sh. Ram Sarup instituted File No.(7) 329/DDPO of 14.06.1985 i.e. an application under Sections, 4, 7 and 11 of The Punjab Village Common Lands (Regulation) Act, 1961, before the learned Collector concerned, against the predecessor-in-interest of the petitioners, whereby the plaintiff claimed the rendition of a declaratory decree, thus for its becoming declared, as owners in possession of the suit khasra numbers. Through a decision made thereons, on 31.07.1987 (Annexure P-4), the title suit (supra), became decreed by the learned Collector concerned.

2. The aggrieved therefrom the present petitioners, reared thereagainst a statutory appeal bearing No.PUN/JDC/TT/2021/000336. 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, hence 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 (Annexure P-12), thus concurring with the decision, as became initially recorded by the learned Collector concerned, through Annexure P-4. 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 exercisings of jurisdiction, thus with a material illegality, and, gross impropriety, rather by the Appellate Authority concerned, this Court deems it fit, and, appropriate to quash Annexure P-12, 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 personally or through their authorized counsel before the competent Authority on 26.09.2023.
5. Disposed of accordingly.

(SURESHWAR THAKUR)
JUDGE

14.09.2023

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(KULDEEP TIWARI)
JUDGE

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