

220

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

CWP-16407-2016

Date of decision : 18.12.2023

Subhash Chand and others

.....Petitioners

versus

Financial Commissioner, Haryana and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Ashok Tyagi, Advocate
for the petitioners.

Mr. Rajneesh Chadwal, AAG, Haryana.

Mr. Karan Singh, Advocate
for respondents No.2 to 5.

Mr. Vinod K. Kanwal, Advocate
for respondent No.6.

RAJESH BHARDWAJ, J.

Present petition has been filed for quashing the impugned order dated 24.05.2016 (Annexure P-3) passed by respondent No.1 vide which the application for condonation of huge delay of 925 days filed by respondents No.2 to 5 has been allowed, though the delay was neither reasonable nor satisfactory and the same was not explained properly, rather the same was intentional and willful. Further prayer has been made for directing respondent No.1 to dismiss the application for condonation of huge delay being neither reasonable nor satisfactory and main revision petition i.e. ROR No.541/2014-15 titled as Pala Ram and others Vs. Subhash Chand and others, be also dismissed being time barred.

Learned counsel for the petitioner has submitted that respondents No.2 to 12 had filed an application on 15.02.2012 for partition of the land before Assistant Collector Ist Grade, Pundri for partitioning the land measuring 439 kanals 0 marla wherein the petitioners were the respondents. He has submitted that as per the record of the case, on filing the petition for the partition, the service was effected on the respondents and objections were invited. However, no objections were filed and thus, naksha beh was presented on 12.04.2012. On 20.11.2012 as no objections were filed to naksha beh, the same was accepted. He submits that as no objections were filed to naksha zim and thus, the same was also accepted on 27.12.2012. He submits that as there was no objection received, hence, the sanad takseem was prepared on 28.02.2013. It is submitted that respondents No.2 to 5 filed ROR No.541/2014-15 on 03.09.2015 after delay of 925 days. It is submitted that the ROR was filed along with the application for condonation of huge delay of 925 days. He has submitted that the petitioners filed their reply on 15.03.2016 to the delay application contending therein that the delay is neither reasonable nor satisfactory and thus, the application deserves to be dismissed. He submits that though the respondents failed to explain the delay even then respondent No.1 without considering the reply filed by the petitioners and arguments raised, condoned the delay vide impugned order dated 24.05.2016. It is submitted that partition proceedings were initiated by the respondents themselves and thus, there was no occasion for them to file ROR with such a huge delay if they were really aggrieved by the order impugned in the ROR. He submits that respondent No.1 has totally ignored the settled principles of law and thus,

has illegally condoned the delay of 925 days and decided to proceed with ROR on merits.

Learned counsel for the respondents on the other hand opposed the submissions made by counsel for the petitioners. He submits that though the partition proceedings were initiated by them however, from the partition proceedings carried out, it is apparent that the same were carried out totally in contravention of the settled principles of partition proceedings. He has submitted that from the bare perusal of the record of the case, it is apparent that the partition proceedings were carried out in a hasty manner and totally in contravention of the settled law. He submits that the partition proceedings were carried out in violation of the terms and conditions approved in the mode of partition. It is submitted that when there are serious illegalities committed in the partition proceedings, the petitioners cannot be non-suited simply on the ground of delay and thus, respondent No.1 has rightly condoned the delay with a view to hear the ROR filed on merits. He has submitted that the present petition being devoid of any merits deserves to be dismissed and the Financial Commissioner be directed to decide the ROR filed on merits in the interest of justice.

Heard. After hearing counsel for the parties and perusing the record, it is apparent that the partition proceedings were initiated at the behest of respondents No.2 to 5 and ultimately, sanad takseem was prepared on 28.02.2013 after completing all the formalities of issuing naksha beh and naksha zeem etc. The respondents being aggrieved by the same, filed ROR with a delay of 925 days which the learned Financial Commissioner condoned vide impugned order dated 24.05.2016. It has

been contended that the partition proceedings were carried out in a hasty manner and no signatures of the authorities were found to have been appended. As observed by respondent No.1 that there appears to be illegalities in the partition proceedings where the signatures were not appended. Thus, the revision petition cannot be dismissed simply on the ground of delay even if it is exorbitant. Thus, learned Financial Commissioner condoned the delay and has chosen to hear the revision on merits. This Court does not find any fault with the order passed by the learned Financial Commissioner.

Thus, in the considered opinion of this Court to meet the ends of justice, the ROR filed deserves to be heard on merits. Hence, this Court does not find any perversity in the impugned order whereby respondent No.1 has condoned the delay and decided to hear the revision petition filed on merits. Hence, finding no merits in the petition the same is hereby dismissed. However, the Financial Commissioner is directed to proceed with the hearing of the ROR pending adjudication before it after summoning both the sides. He is directed to decide the ROR filed after hearing both the sides within three months from the date of receipt of certified copy of this order.

18.12.2023*m. sharma***(RAJESH BHARDWAJ)
JUDGE**

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