

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

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**CWP-2896-2024 (O&M)
Date of decision:08.02.2024**

Inderjit Singh

... Petitioner

Vs.

Director, Rural Development & Panchayat Department, Punjab & others

... Respondents

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR.
HON'BLE MRS. JUSTICE SUKHVINDER KAUR.**

Present: Mr. Krishan Singh Dadwal, Advocate for the petitioner.

Mr. Maninder Singh, DAG, Punjab.

...

SURESHWAR THAKUR, J. (ORAL).

1. One Inderjit Singh, the present petitioner filed a statutory appeal bearing Appeal No.759 of 2019 against the order of eviction passed on 20.11.2018 by the learned Collector concerned. The said statutory appeal was time barred, and, as such, since in the relevant application, the delay of 210 days remained purportedly unexplained by the said Inderjit Singh, therefore, the appellate Authority concerned, through the drawing of Annexure P-7, thus, proceeded to dismiss the said statutory appeal, on the ground, that it was time barred.

2. Annexure P-7 led Inderjit Singh to institute CWP-33641-2019, and, this Court after allowing the said writ petition, through an order made thereons, on 19.04.2023, proceeded to, in paragraph 4 thereof, which becomes extracted hereinafter, make an order of remand, upon the learned

Appellate Authority concerned:

“Resultantly, the above manner of exercise of jurisdiction, is but an exercise with a gross material impropriety, also is a jurisdiction exercised with a patent illegality. The above is required to be undone. Therefore, the impugned order is quashed, and set aside, and, the matter is remanded to the learned appellate authority concerned to, after restoring the apposite application, besides the statutory appeal, to their original number(s), initially make, in the above manner, a lawful order, on the condonation of delay application, and thereafter, shall proceed to hear the statutory appeal, on merits, and whereafter, it may make a prompt lawful decision thereon. The above exercise shall be completed within 4 months from today, and, till the remanded lis is restored to its original number, the parties are directed to maintain status quo, in respect of the petition land(s).”

3. The reason which prevailed, upon this Court to allow the writ petition (supra), became embedded in paragraph 2, as occurs in Annexure P-8, para whereof, stands extracted hereinafter:

“As disclosed by Annexure P-5, through a decision made on the petition (supra), on 20.11.2018, the motion laid by the Gram Panchayat concerned, before the ld. Collector concerned, was accepted. However, the aggrieved therefrom, instituted an appeal thereagainst, before the appellate authority concerned, but, since the said appeal was time barred, therefore, along with the statutory appeal, an application cast under the provisions of Section 5 of the Limitation Act, became appended, seeking a relief therein, that the delay of 210 days, as did occur in the institution of the statutory appeal, be condoned. However, the learned appellate authority concerned, did not invite any reply, to the said application, as became instituted in the said appeal, by the

respondent, nor took to, after completion of the pleadings, on the said application, frame the relevant issue(s), nor, deemed it fit to permit the applicant to adduce any evidence on the relevant issue(s). Contrarily, the learned appellate authority concerned, in a slipshod, and, in a perfunctory manner, proceeded to, through Annexure P-7, make a common dismissal order, both upon the application, and, also upon the statutory appeal.”

4. Therefore, the Appellate Authority in terms thereof, was required after inviting responses to the said application, rather, from the opposite litigant, thus, formulate issues on the contentious pleadings of the litigants, and, thereafter was required to be permitting the litigant concerned to adduce evidence on the said formulated issues, whereons, the relevant thereto evidence discharging onus became cast.

5. However, the above directions, as made in Annexure P-8 have yet remained uncomplied, at the instance of the Appellate Authority concerned, inasmuch, it yet proceeded to decline relief, on the apposite application whereby the said Inderjit Singh had claimed, that he has made a valid explanation, to the delay caused in his preferring Appeal No.759 of 2019, before the Appellate Authority concerned.

6. In consequence, the impugned order carried in Annexure P-11 is quashed, and, set aside, and, it is directed that the directions carried in paragraph 2 of Annexure P-8, shall become ensured to be strictly complied with by the Appellate Authority concerned.

7. Moreover, after allowing the writ petition, this Court makes an order of remand to the Appellate Authority concerned, to after its restoring the opposite application, besides the statutory appeal to their respective

original numbers, to initially make in the above matter, a lawful order on the condonation of delay application, and, thereafter he shall proceed to hear the statutory appeal on merits, and, thereafter shall make a prompt decision thereon. The above exercise shall be ensured to be completed within a period of four months from today. Till the remanded *lis* is restored to its original number, the parties are directed to maintain status quo in respect of the disputed lands.

8. However, an explanation is required to be elicited from the statutory authority concerned, for its making disobedience to the above orders, as passed, and, as embodied in Annexure P-8. The said explanation be purveyed by the Joint Development Commissioner concerned, within three weeks from today.
9. Disposed of accordingly.
10. Miscellaneous application(s), if any, shall also stand disposed of.

(SURESHWAR THAKUR)

JUDGE

(SUKHVINDER KAUR)

JUDGE

08.02.2024

harjeet

1. Whether speaking/reasoned?

Yes
2. Whether reportable?

Yes