

2024:PHHC:126055-DB



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

(113)

**LPA-2295-2024 (O&M)
Decided on : 23.09.2024**

Jaggar Singh

.....Appellant(s)

Versus

Financial Commissioner, Animal Husbandry, Punjab & others

.....Respondent(s)

**CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA
HON'BLE MRS.JUSTICE MEENAKSHI I. MEHTA**

Present: Mr.S.S.Sodhi, Advocate, for
Mr.R.S.Dhaliwal, Advocate for the appellant (s).

G.S. Sandhawalia, J.(Oral)

CM-5534-LPA-2024

1. Application for condoning the delay of 109 days in refiling the present appeal is allowed, in view of the averments made in the application, duly supported by affidavit of the counsel. Delay of 109 days in refiling the present appeal is hereby condoned.

2. CM stands disposed of.

CM-5535-LPA-2024

3. Application for condoning the delay of 35 days in filing the present appeal is allowed, in view of the averments made in the application, duly supported by affidavit of the appellant. Delay of 35 days in filing the present appeal is hereby condoned.

4. CM stands disposed of.

CM-5536-LPA-2024

5. Exemption application is allowed, as prayed for.

6. CM stands disposed of.

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7. Consideration in the present appeal is to the order dated 14.02.2024 of the learned Single Judge whereby the application for condonation of delay of 2415 days in filing misc.application whereby modification of the order dated 03.04.2017 had been sought, which had been dismissed.

8. The learned Single Judge came to the considered opinion that no sufficient cause was made out and noticed that dispute was regarding the partition proceedings and initially, the petition had been dismissed on 03.04.2017 under Order 9 Rule 2 CPC, conditionally, with liberty to file appropriate application, to place on record the “Naksha Bey”. It was noticed that the matter was pending since 2011 and resultantly, the delay was not condoned after noticing that even if the period of Covid-19 is excluded, still there was no explanation for the delay, as the Naksha Bey had been applied on 29.09.2023.

9. Counsel for the appellant has tried to justify the delay and argue that the same should have been condoned and the matter should have been heard on merits.

10. We are not in a position to agree with the said contention. The applicant/respondent No.5 filed the partition application for the land measuring 257 kanals 10 marlas on 09.12.1997. The order passed by the Financial Commissioner was dated 21.11.2007 (Annexure P-8). Apparently, the appellant chose not even to challenge the said proceedings for a period of 3 years and the writ petition was filed only in the year 2010. From the year 2010, as noticed by the Learned Single Judge, the matter was kept pending for a period of 7 years and time had been sought to place on record the “Naksha

Bey” but no effort was made to do the needful, which go on to show that the findings recorded by the Financial Commissioner which were subject matter of challenge before the learned Single Judge, was justified that only an effort has been made to delay the partition proceedings.

11. In such circumstances, we do not find any illegality or irregularity in the order passed by the learned Single Judge, dismissing the application for condonation of delay in filing the application for modification of the order dated 03.04.2017. Resultantly, we do not find any ground to call upon the respondents, at this belated stage as the partition proceedings would have culminated by now and possession would have been duly handed over as per the order passed by the revenue authorities and it would be a travesty of justice to put the clock back at the hands of an indolent litigant.

12. In view of the above discussion, the present appeal is dismissed in limine.

(G.S. SANDHAWALIA)
JUDGE

(MEENAKSHI I. MEHTA)
JUDGE

23.09.2024
Sailesh

Whether speaking/reasoned :	Yes
Whether Reportable :	No