

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

2024.PHHC.104382-DB



(107)

CWP-11492-2024
Decided on :13.08.2024

Sarvan Singh

.....Petitioner(s)

Versus

State of Punjab and others

.....Respondent(s)

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

Present: Mr. Manoj Kaushik, Advocate for the petitioner (s).

G.S. Sandhawalia, J.(Oral)

1. In the present writ petition filed under Articles 226/227 of the Constitution of India, the petitioner seeks setting aside of the Resolution dated 27.08.2009 (Annexure P-1) passed by respondent No.4-Gram Panchayat, whereby 18 marlas Shamlat land was sold/transferred to respondent No.5, in contravention & violation of provisions of Punjab Village Common Lands (Regulation) Act, 1961 (for short '1961 Act').
2. Apparently, the petitioner could have challenged the said order by filing an appeal under Section 6 of the said Act, within a period of 30 days from the date of such act or decision. The resolution was passed on 27.08.2009(Annexure P-1) and the petitioner for the first time had approached this Court by filing CWP No.22203 of 2016, which was disposed of on 16.05.2023 (Annexure P-6) by giving liberty to the petitioner to approach the

Appellate Authority. The Appellate Authority has now vide impugned order dated 30.11.2023 (Annexure P-7) dismissed the appeal on the ground that it has been filed after a long delay.

3. Counsel for the petitioner has tried to convince us that the ground for selling the Shamlat land was that the house has been constructed for the last 30 years and, therefore, as per Rule 4 of the Punjab Village Common Lands Regulation Rules, 1964, it was not sustainable, since the said Rule provides that where a person has built a house or erected any other structure on any land of the Shamlat deh, before the coming into force of the Act, the Panchayat would allow such person to retain possession. It is, thus, submitted that the private respondent was only in possession of the house 30 years prior in point of time and the said house was not in existence prior to the coming into force of the Act and, therefore, construction or permission to purchase the land was not justified.

4. We are of the considered opinion that having not approached the Appellate Authority within the time prescribed and having filed a writ petition before this Court after a period of 7 years, the petitioner as such has lost his right to agitate or raise challenge against the resolution. The private respondent No.5 had deposited the value of the land and the BDPO has approved the said action way back on 15.09.2009 and it would not be equitable to set back the clock at this point of time.

5. In the peculiar facts and circumstances, once the present petitioner has not approached the authority within the time prescribed of filing the appeal and merely by filing a writ petition at a belated stage, we cannot extend the time. Thus, the impugned order does not suffer from any infirmity

on that account. Resultantly, we are of the considered opinion that it is not a fit case to exercise the extra-ordinary writ jurisdiction. The writ petition stands dismissed, accordingly.

(G.S. SANDHAWALIA)
JUDGE

13.08.2024
Naveen

(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned :	Yes
Whether Reportable :	No