



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CWP-12229-2024
Date of Decision: 27.05.2024

Ramji Dass

....Petitioner

Versus

State of Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MR. JUSTICE LALIT BATRA

Present: Mr. Vikram Singh, Advocate
for the petitioner.

Mr. Maninder Singh, Sr. Deputy Advocate General, Punjab.

Sureshwar Thakur, J. (Oral)

1. The petitioner as plaintiff instituted a declaratory suit under Section 11 of the Punjab Village Common Lands (Regulation) Act, 1961, (hereinafter in short to be referred as ‘the Act of 1961’), before the Collector concerned, and thereons, through Annexure P/17, the espoused declaratory decree became rendered in respect of the suit land.
2. Being aggrieved therefrom, the Gram Panchayat concerned instituted a time barred statutory appeal before the appellate authority. Though with the said time barred statutory appeal, an application under Section 5 of

the Limitation Act became appended, but without initially lawfully deciding the said application for condonation of delay, though the appellate authority striking issues on the contentious pleadings of the parties, and, thereafter permitting the litigant concerned to discharge the evidence adducing onus on the said struck issues rather proceeded to make a decision on the merits of the statutory appeal.

3. The making of Annexure P/21 by the appellate authority, led the aggrieved therefrom to institute a Civil Writ Petition No.11442 of 2015 before this Court, which resulted in the making of Annexure P/22, whereby this Court, in the operative part of the decision, which occurs in para 7 thereof, para whereof become extracted hereinafter, passed the hereinafter extracted directions, whereby the appellate authority was firstly directed to decide the application for condonation of delay, and, if the delay is condoned, then it was directed to decide the appeal on merits, in accordance with law.

“7. In this view of the matter and for the reasons aforesaid, we allow this writ petition; set aside the order dated 19.03.2015 and remit the case to the first respondent namely, the Appellate Authority to decide firstly the application for condonation of delay and if the prayer of Gram Panchayat is accepted, then to decide the appeal on merits, in accordance with law. The petitioner is also permitted to file his reply to the application for condonation of delay before passing any order on that application. It shall be appreciated if the matter is decided by the Appellate Authority within a period of six months.”

4. Thereafter, in pursuance thereto, the makings of Annexure P/24 by the appellate authority, led the aggrieved therefrom to institute a Civil Writ Petition No.8372 of 2019 before this Court, which resulted in the making of Annexure P/25, whereby this Court, in the operative part of the decision, which occurs in para 7 thereof, para whereof become extracted hereinafter, passed the hereinafter extracted directions, whereby the appeal was directed to be remanded and after remand, the appellate authority was directed to restore the statutory appeal to its original number, and to proceed to initially make a lawful decision upon the application for condonation of delay.

“7. It is, but in the event of the above not being done, that the petitioner herein has challenged the above orders, as made on application for condonation of delay, and, as also made on the main appeal bearing No.51 of 2013. Necessarily, since, as above stated, this Court discovers the above fallacy in the impugned orders, thereupon, the impugned orders, as carried in Annexure P-13, and, P-14, are both quashed and set aside. However, the learned Appellate Court concerned, is directed to initially make a reasoned order on the application for condonation of delay, but, only after striking issues on the contentious pleadings, and, thereafter, shall permit the litigants concerned, to adduce their respective evidence(s) thereon. After the application for condonation of delay becomes allowed by the learned Appellate Court, subsequently, the Appeal bearing No.51 of 2013 shall be restored to its original number, and shall, in accordance with law, be decided, but, only through a speaking decision being made thereon, and, only after hearing all affected persons concerned.”

5. Initially, through Annexure P/26, through the appellate authority condoned the elongated delay of 5 years and 55 days in rather the filing of the statutory appeal, but the infirmity which grips the said orders becomes comprised in the factum that despite this Court, directing the appellate authority to strike issues on the contentious pleadings and to permit the litigants concerned to discharge the evidence adducing onus over the said struck issues, yet obviously through departures being made by the appellate authority vis-a-vis the above direction, rather in a most slipshod and hasty manner, the decision on the application of condonation of delay (Annexure P/26), thus was passed.

6. Subsequently, the statutory appeal bearing No.51 of 2013, was allowed (Annexure P/27).

7. Since the apposite statutory appeal was *prima facie* grossly time barred, and, unless good tangible reasons became reflected in the appended therewith application cast under Section 5 of the Limitation Act, besides when it became directed by this Court (Annexure P/25), that the appellate authority shall initially, in the manner detailed above, shall ensure that after striking issues on the contentious pleadings besides after validly appreciating the evidence as become adduced thereon, thus to initially make a decision on the application for condonation of delay. However, as stated supra, through a decision has been recorded by the appellate authority on the application for condonation of delay, but the said decision, as stated supra, has not been recorded in the manner as became directed to be so done by this Court.

8. Resultantly, the said error which seeps into Annexure P/26, is required to be undone, through the said annexure being quashed and set aside, irrespective of the fact that subsequently, a decision on merits was passed on the statutory appeal bearing No.51 of 2013, whereby the said statutory appeal became allowed and the decision Annexure P/17, passed by the Collector concerned, whereby, plaintiff's suit became decreed, rather become annulled.

9. Resultantly, both Annexures P/26 and P/27 are quashed and set aside, but with directions to the appellate authority to initially in the manner directed by this Court in Annexure P/25, make a decision upon the condonation of delay application and thereafter, if the delay is well explained to after passing an affirmative order on the application for condonation of delay, thus subsequently register the statutory appeal, and, thereafter proceed to lawfully decide the statutory appeal through a well reasoned order being made thereons.

10. If ultimately, the appellate authority concludes that, there is a noticeable infirmity ingraining the decision Annexure P/17, inasmuch as, the said decree becoming passed without adherences by the Collector concerned, to the regulatory statutory mechanism relating to the trial of the civil suit, thus comprised in issues becoming struck and thereafter, the evidence adducing discharging onus becoming rested upon the litigants concerned. Resultantly, in the wake of the said noticeable infirmity, if any, emerging in the decision passed by the Collector concerned, thereupon the appellate authority may proceed to, as such in accordance with law, after allowing the statutory appeal,

and also after quashing Annexure P/17, consider the making of remand of the *lis*, thus for undoing the said infirmity, to the learned Collector concerned.

11. Disposed of accordingly along with all pending applications, if any.

(SURESHWAR THAKUR)
JUDGE

27.05.2024
Varinder Prashad

(LALIT BATRA)
JUDGE

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