

In the High Court of Punjab and Haryana at Chandigarh

[205]

CWP-26621-2023

Date of Decision: 11.03.2024

BHUPINDER SINGH AND OTHERS

..... Petitioners

Versus

STATE OF PUNJAB AND OTHERS

.....Respondents

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

Present: Mr.H.K. Bindra, Advocate for the petitioners.

Mr. Ankur Mittal, Additional A.G. Haryana with
Mr. Saurabh Mago, DAG, Haryana.

SURESHWAR THAKUR, J. (ORAL)

1. Despite valid service being caused upon respondent No.3-Gram Panchayat neither it appeared personally, nor through a validly engaged counsel, therefore, respondent No.3 is proceeded against *ex parte*.

2. The Gram Panchayat concerned, instituted an appeal under Section 11(2) of the Punjab Village Common Lands (Regulation) Act, 1961 (hereinafter for short called as the 'Act of 1961'), against the order dated 16.12.2014(A-1), as made by the Collector concerned, whereby, the title suit filed by respondents No.2 to 4 under Section 11 of the 'Act of 1961', has been accepted.

3. The said raised statutory appeal before the competent Appellate Authority was time barred, as such, a separate application along with the said statutory appeal, seeking condonation of delay of 07 years and 06 months (2737 days) in filing the appeal, thus, became appended therewith. Through a decision made on the said delay application, on 16.08.2023 (Annexure P-4), the learned Commissioner concerned, condoned the delay of 07 years and 06

months(2737 days) in filing the said appeal.

3. The aggrieved therefrom, the present petitioners approached this Court and reared thereagainst a writ petition under Section 226/227 of the Constitution of India for issuance of a '*writ in the nature of certiorari*' for quashing and setting aside the impugned order dated 16.08.2023 (Annexure P-4) passed by the learned Commissioner concerned.

4. The learned counsel for the petitioners submits that respondent No.2, without considering the reply of the respondents therein, petitioners herein, and, submissions of their counsel passed a cryptic and non-speaking order of condoning the delay in filing the appeal. Therefore, the said order be quashed and set aside.

5. From a perusal of the impugned order, it appears that the learned Appellate Authority without inviting pleadings from the contesting litigants, and, thereafter, without striking issues on such pleadings and obviously without permitting the litigants concerned to adduce evidence thereons, rather has within the said statutory appeal, thus, proceeded to allow the condonation of delay application.

6. The manner of adjudication being made, upon the said motion(s) by the statutory authorities below, is required to be deprecated, as it became enjoined to after inviting response(s) from the respondent concerned, to thereafter strike issues on the contested pleadings, and, to thereafter formulate issues whereafter it became imperative, upon them to cast the evidence adducing onus, upon the litigants concerned.

7. Paramountly since the above did not happen. Therefore, as stated (supra), but in an slipshod and hasty manner besides with *prima facie*, ill informed reason, the application (supra) became passed.

8. In consequence, the impugned order, as carried in Annexure P-4 is quashed, and, set aside.

9. Therefore, after allowing the present writ petition, this Court makes an order of remand to the Appellate Authority concerned to, after its restoring the apposite application, to its original number, to initially make in the above matter, a lawful order on the condonation of delay application, and, if the said application becomes allowed, thereafter, he shall proceed to hear the statutory appeal on merits. The above exercise shall be ensured to be completed within a period of two weeks from today.

10. The parties are directed to record their appearance(s) either personally or through their authorized counsel before the competent Authority on 18.03.2024.

11. Disposed of accordingly.

12. Pending miscellaneous application(s), if any, shall also stand disposed of.

(SURESHWAR THAKUR)
JUDGE

(SUKHVINDER KAUR)
JUDGE

March 11, 2024
Anjal

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