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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 13915/2024, CM APPL. 58252/2024**

SATBIR SINGH THR. HIS LRS & ORS.Petitioners

Through: Mr. Harinder Sangwan and Mr. Jatin
Sharma, Advocates.

versus

THE FINANCIAL COMMISSIONER & ORS.

.....Respondents

Through: Mr. Rishikesh Kumar, ASC, GNCTD
with Mr. Atik Gill and Ms. Sheenu Priya,
Advocates.

Ms. Jyoti Nambiar, Advocate for R2.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

20.12.2024

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1. This writ petition has been preferred on behalf of the Petitioners under Articles 226 and 227 of the Constitution of India laying a challenge to the impugned order dated 04.07.2024 passed by the learned Financial Commissioner, Delhi/Respondent No.1 in Case No. 86/2024 titled ***Satbir Singh (Deceased) through LRs v. Kuldeep Singh and Anr.,*** and seeking restoration of the review petition filed by the Petitioners with a direction to the Financial Commissioner to entertain, hear and decide the petition under Section 47 read with Section 151 CPC.

2. Facts to the extent necessary and as averred in the writ petition are that Petitioners are legal heirs of deceased Satbir Singh, in whose name land bearing Khasra No.142/94/11 admeasuring 19 biswas situated within the



revenue estate of village Kanjhawla, Delhi was mutated vide order dated 02.02.2000 by the Consolidation Officer. Respondent No.2, namely Sh. Kuldeep Singh filed an appeal before the Settlement Officer/Consolidation Officer against the said order, which was dismissed on 11.02.2002 for the reason that he had refused to appear before the said officer, despite service of notices. This order was challenged by Respondent No.2 before Respondent No.1 and the appeal was dismissed on 18.01.2007 on ground of lack of territorial jurisdiction. Against this order, Respondent No.2 approached this Court and by order dated 03.03.2010, Respondent No.2 was granted liberty to file an appeal before the Deputy Commissioner, Delhi, which he did and the appeal was allowed vide order dated 05.11.2015 directing that half share of the plot which was not constructed shall be reverted back to Respondent No.2 in the revenue records after proper demarcation and similarly the remaining portion received by him in exchange shall be reverted to Late Satbir Singh.

3. It is averred that against the order dated 05.11.2015 Late Satbir Singh filed revision petition bearing No. 05/2016 before Respondent No.1, which was dismissed for non-prosecution on 27.01.2017. On 10.02.2017, Late Satbir Singh filed a restoration application bearing No.33/2017 which was adjourned to 27.04.2017 on 03.03.2017 as none appeared for the applicants. On 27.04.2017, again the applicants were unrepresented and the restoration application was dismissed. Thereafter on 09.02.2022, Late Satbir Singh died due to his prolonged illness.

4. In compliance of order dated 05.11.2015, plot was divided in two parts vide Resolution No.502 dated 07.07.2022 and allotted to each of the parties in equal shares. Smt. Rajwati, widow of Late Satbir Singh filed



revision petition bearing No.50/2023 under Section 42 of East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948, which was disposed of by this Court on 16.02.2024 holding that order dated 07.07.2022 was passed after urbanization and could not be implemented and parties were given the liberty to approach the appropriate forum for their grievances.

5. Petitioners filed a review petition dated 15.03.2024 before Respondent No.1 against order dated 27.04.2017 seeking revival of the restoration application in which notice was issued on 19.03.2024 returnable on 04.07.2024. However, on the adjourned date, again due to non-appearance of the Petitioners and/or their counsel, Respondent No.1 dismissed the review petition for non-prosecution on the ground that the case had been dismissed earlier on more than two occasions for non-prosecution. It is this order which is challenged before this Court in the present writ petition.

6. Learned counsel for the Petitioners submits that Petitioners were diligently pursuing the matter after they learnt of the pending proceedings upon death of Late Satbir Singh. It is urged that Late Satbir Singh was suffering from a prolonged illness which included paralysis and a serious heart ailment and was bed ridden for a long time till he expired on 09.02.2022 and during his lifetime, Petitioners were unaware of the pending proceedings. Restoration application was initially filed but could not be pursued only for this reason. However, on learning of dismissal of the revision petition filed by Late Satbir Singh as well as the restoration application, steps were taken for revival by filing a review petition. When the petition was listed on 04.07.2024, counsel representing the Petitioners



was held up in traffic jam and could not reach on time and on learning of the dismissal, the matter was mentioned but the petition was not taken up for re-hearing. It is argued that Petitioners should not suffer for the fault of the counsel and the review petition be restored so that arguments can be made before Respondent No.1, failing which prejudice will be caused to the Petitioners.

7. Learned counsels for the Respondents fairly and candidly submit that they may not have an objection to the review petition being restored subject, however, to the Petitioners undertaking that they will diligently pursue the matter henceforth and further subject to costs being imposed.

8. Heard learned counsels for the parties and examined the submissions of the Petitioners.

9. It is true that the revision petition filed by Late Satbir Singh was dismissed on 27.01.2017 and the restoration application was also dismissed on 27.04.2017. Petitioners have explained that they were unable to pursue the matter as they were unaware of the pending proceedings and Late Satbir Singh was virtually bed ridden for a long time due to paralysis and serious heart ailment till he expired on 09.02.2022. It is only thereafter that the Petitioners became aware of the pending applications and filed a review petition bearing No.86/2024 for recall of order dated 27.04.2017. On 19.03.2024, when the review petition was listed, notice was issued to the Respondents returnable on 04.07.2024. However, on the said date none appeared for the Petitioners and the review petition was dismissed in default and for non-prosecution. Learned counsel for the Petitioners had explained that on the date of hearing, he was held in traffic jam and 15 minutes later when he reached, he mentioned the matter but the same was not taken up.



10. In my view, Petitioners have made out a case for restoration of the review petition. It is settled that no litigant should suffer for the fault of a counsel and in the present case, the counsel has on an affidavit taken the onus on himself for non-appearance as he was genuinely held up in a traffic jam. Therefore, the writ petition deserves to be allowed.

11. This writ petition is accordingly allowed setting aside order dated 04.07.2024 and restoring the review petition bearing No.86/2024 to its original number with a further direction to Respondent No.1 to take up the petition for consideration and hearing on 05.02.2025, subject to payment of cost of Rs.20,000/- by the Petitioners in favour of Delhi High Court Advocates Welfare Trust, Account No. 15530210002995, within eight weeks from today and further subject to an undertaking that Petitioners will pursue the matter diligently and will ensure presence before Respondent No.1 on the dates fixed.

12. It is made clear this Court has not entered into or expressed any opinion on the merits of the case and it will be open to Respondent No.1 to decide the review petition as per law and uninfluenced by the present order. In case the Petitioners do not appear, it will be open to Respondent No.1 to pass appropriate order as deemed fit.

13. Writ petition stands disposed of, along with the pending applications.

JYOTI SINGH, J

DECEMBER 20, 2024
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