



CR-1014-2014

-1-

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

114

CR-1014-2014

Date of decision:22.05.2025

RAJESH KUMAR

...PETITIONER

VS.

MUNICIPAL CORPORATION PANCHKULA AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Amit Jain, Senior Advocate with
Ms. Aeshna Jain, Advocate
for the petitioner.

Mr. Pritam Singh Saini, Advocate,
Mr. Deepak Saini, Advocate,
Ms. Kanchan Sindhu, Advocate &
Ms. Vamika Johar, Advocate
for respondent No.1.

None for respondents No.2 and 3, despite service.

SUVIR SEHGAL, J.

1. Aggrieved of judgment dated 06.09.2013, passed by the learned Additional District Judge, Panchkula, whereby while accepting an appeal preferred by respondent No.1, suit filed by Gram Panchayat, Chandimandir, has been restored to its original number and Deputy Commissioner, Panchkula has been directed to initiate criminal/departmental proceedings against the persons responsible for the delay.

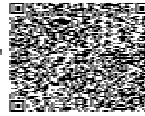


CR-1014-2014

-2-

2. Counsel for the petitioner has submitted that Gram Panchayat, Chandimandir, plaintiff, filed a suit for declaration that judgment and decree dated 02.05.1994, Annexure R-1, is null and void and not binding upon it. This suit was dismissed in default on 20.10.2003 and an application filed for its restoration under Order 9 Rule 9, CPC was dismissed by the Trial Court vide order dated 26.04.2011 on the ground that it has been filed beyond the prescribed period of limitation. Counsel states that on an appeal filed by the plaintiff, order of the Trial Court has been set aside, without appreciating the legal position and a direction has been given to the Deputy Commissioner to initiate proceedings against the persons responsible for the delay. Counsel asserts that the application for restoration lacks bona fides and respondent No.1 has failed to show sufficient cause or give reasons for the delay in filing the application for restoration. She has placed reliance upon **Thirunagalingam Vs. Lingeswaran and another 2025 INSC 672** and **Smt. Dev Bala Sehgal Vs. Devinder Pal Sehgal 2001 (4) RCR (Civil) 757.**

3. Per contra, counsel for respondent No.1 while supporting the impugned order has argued that Baldev Singh, defendant had colluded with the then Sarpanch of Gram Panchayat, Chandimandir and had succeeded in getting a decree dated 02.05.1994, Annexure R-1, in his favour. He submits that a suit was filed by Baldev Singh claiming that he is owner in possession of 48 bighas 7 biswas of land in Chandimandir, Tehsil Panchkula and on appearance, the then Sarpanch of Gram Panchayat conceded to the claim and decree, Annexure R-1, was passed. He submits that when the fraud came to light, a suit for declaration for setting aside decree, Annexure R-1, was filed, which was dismissed in default on 20.10.2003 as the Sarpanch of the then newly elected Gram Panchayat did not pursue the litigation. He states that



CR-1014-2014

-3-

during the course of filing of written statement in another suit, the Law Officer of the Gram Panchyat came to know that the suit had been dismissed in default. An application for its restoration was moved, which was rejected by the Trial Court, and in appeal, the learned Additional District Judge vide impugned order has restored the suit. He urges that fraud vitiates judicial proceedings and the Courts have to adopt liberal approach in condoning the delay especially in cases involving government properties. He has placed reliance upon:

- (i) **Inder Singh Vs. The State of Madhya Pradesh 2025**
SCC Online SC 600;
- (ii) **D.D.A. Vs. Pratap Singh and another Law Finder**
DocID #1094806; and
- (iii) **Greater Hyderabad Municipal Corporation Vs. M.**
Narsinga Rao Law Finder DocID #1603168.

4. I have heard counsel for the parties and considered their submissions besides examining the documents brought on the record.

5. Suit filed by the plaintiff was dismissed in default on 20.10.2003 and an application for its restoration was filed on 16.07.2005 after a delay of more than 1½ year. In this application, plaintiff has taken a stand that the dismissal of the suit never came to its knowledge and it was during the course of preparing response in another suit that the Law Officer concerned came to know that the suit had been dismissed. Suit had been filed for setting aside a judgment and decree, Annexure R-1, whereby on a statement was made by the then Sarpanch of Gram Panchayat conceding to the claim and a huge chunk of expensive land located in the heart of Chandimandir was decreed in favour of Baldev Singh. Stand of respondent



CR-1014-2014

-4-

No.1, who is stepped into the shoes of the Gram Panchayat is that valuable government land has been misappropriated in connivance with a panchayat official and the Court, who is the guardian of the public property should adopt a liberal approach in condoning the delay in filing of the application for restoration of suit.

6. In *Inder Singh's case (supra)*, Supreme Court has observed that delay cannot be condoned without sufficient cause, but adjudication on merits cannot be scuttled merely on the basis of limitation. Court should weigh the importance of the matter and potential consequences of dismissing appeals on technical grounds such as limitation before deciding the matter. Supreme Court held that liberal approach is permissible in condoning delay to ensure that substantive justice is done, particularly in disputes involving government land. In *D.D.A.'s case (supra)*, High Court of Delhi held as under:-

“19. The supervisory jurisdiction of this Court under Article 227 of the Constitution of India is meant to ensure that the proceedings before the Trial Courts are conducted in accordance with law and that the Court process is not being abused. What is found in the present case is that the respondents/plaintiffs are enjoying an interim order in the suit restraining the petitioner/defendant no.1 DDA from dispossessing them from the property. Though the counsel for the respondents/plaintiffs states that the said order was subject to respondents/plaintiffs depositing Rs. 25,000/- in the Suit Court and which has been deposited but the said sum of Rs. 25,000/- has today lost any meaning in terms of compensation for the possession enjoyed by the respondents/plaintiffs of the property now at least for 21 years owing to the pendency of this proceeding



Considering the location of the property which is prime and size of the property which is disclosed to be 500 sq. yds., the compensation at market rates for occupation, if unauthorised, as it appears today from the arguments, would run into crores of rupees. This Court cannot, in spite of the suit file having come before this Court and finding the aforesaid state of affairs, turn a blind eye on such technicalities and at the cost of public property. It cannot be lost sight of that the officials of Government and Government agencies like DDA are often found lacking in performance of their duties and owing to the neglect or fault of a few officers, the public property cannot be permitted to be appropriated by a few citizens for their own exclusive benefit and gain.

20. I am therefore not inclined to agree with the counsel for the respondents/plaintiffs to dismiss this petition on the aforesaid technicality and allow the suit which the counsels have been unable to justify as maintainable till now, to remain pending and the respondents/plaintiffs to derive benefit therefrom by perpetuating their possession, presumably unauthorised, of the property.”

7. When examined in the light of the above reproduced legal position, it is evident that a prime government property has been decreed in favour of a private party on the statement given by a Sarpanch of the village way back in 1994. Property is worth crores of rupees and falls within the limits of Municipal Corporation, Panchkula. In this backdrop, this Court is of the view that as question of ownership of valuable property is involved, Corporation should be given an opportunity to show as to whether the decree, Annexure R-1, has been obtained by fraud and whether it is vitiated. Even though, there is a delay of 1½ years in filing of the application for

**CR-1014-2014****-6-**

restoration, this Court is of the opinion that the learned Additional District Judge has acted within four corners of the law while exercising the discretion in condoning the delay and restoring the suit to its original number. Delay in filing the application has been well explained by respondent No.1 even though application is not supported with an affidavit of the Law Officer concerned. The judgments relied upon by counsel for the petitioner do not come to her aid as they are not applicable to the facts in hand. No fault can be found in the direction given by the learned Additional District Judge for conducting departmental or criminal proceedings against derelict officials. There is no illegality or perversity in the order passed by the learned Additional District Judge.

8. Petition being devoid of merit is dismissed with no order as to costs.

9. This Court has been informed that despite remand by the learned Additional District Judge, proceedings have not commenced. Therefore, parties are directed to appear before the Trial Court on 16.07.2025 for further proceedings in accordance with law.

22.05.2025

*sheetal***(SUVIR SEHGAL)
JUDGE**

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No