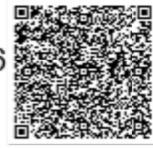


2025:PHHC:055886



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**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

CWP-11834-2025

Date of Decision: 30.04.2025

Gurinderbir Singh

..... Petitioner

Versus

Financial Commissioner, Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present: Mr. Jaswinder Rana, Advocate for the petitioner.

Mr. Navneet Singh, Senior DAG, Punjab.

HARSH BUNGER J. (ORAL)

The instant writ petition has been filed under Articles 226/227 of the Constitution of India, *inter alia*, seeking a writ in the nature of Certiorari for setting aside order dated 18.10.2024 (Annexure P-3) passed by the learned Financial Commissioner, Punjab, thereby dismissing the application (Misc. No.67/2024 in ROR-1241-2023) for restoration of the main case (ROR No.1241 of 2023), which was dismissed for non-prosecution vide order dated 17.05.2024.

2. Briefly, respondents No.5 and 6 herein filed an application seeking partition of joint land, measuring 160 Kanal-4 Marla, situated at Village Dhariwal, Tehsil Ajnala, District Amritsar.

2.1 In the said partition proceedings, the petitioner was impleaded as respondent No.8. Petitioner is stated to have submitted an application, praying that the partition proceedings be adjourned *sine die* on account of

the fact that the question of title of the property under partition was pending before the Civil Court at Ajnala. The said application was dismissed by the learned Assistant Collector, 1st Grade, Ajnala on 27.05.2022; whereupon, the petitioner preferred an appeal before the learned Collector, Ajnala, who, vide its order dated 05.12.2022, adjourned the partition proceedings *sine die*.

2.2 Feeling aggrieved against the aforesaid order dated 05.12.2022, respondents No.5 and 6 filed an appeal before the learned Divisional Commissioner, Jalandhar, who vide order dated 02.08.2023, set aside order dated 05.12.2022 and directed that the partition proceedings before the Assistant Collector shall continue.

2.3 Being dissatisfied, petitioner is stated to have preferred a revision petition (ROR No.1241 of 2023) before the learned Financial Commissioner, Punjab, which came to be dismissed for non-prosecution on 17.05.2024.

2.4 Thereafter, petitioner filed an application seeking recalling of order dated 17.05.2024 passed by the Financial Commissioner, Punjab, and for restoration of the main revision petition (ROR No.1241 of 2023), however, the said restoration application was also dismissed for want of prosecution vide impugned order dated 18.10.2024 (Annexure P-3).

3. In the aforementioned circumstances, petitioner has filed the instant writ petition before this Court seeking relief(s), as noticed hereinabove.

4. Notice of motion.

5. Mr. Navneet Singh, Senior Deputy Advocate General, Punjab, who is present in Court, accepts notice on behalf of the respondent-State.

6. Learned counsel for the petitioner contends that the main

revision petition (ROR No.1241 of 2023) was first listed on 01.12.2023 before the learned Financial Commissioner, Punjab; it was adjourned to 19.01.2024, on the written request made on behalf of learned counsel for the petitioner. On 19.01.2024, the Court was not held and the matter was adjourned to 02.02.2024. It is stated that on 02.02.2024, the petitioner engaged a new counsel (who is presently representing him before this Court, as well), who appeared before the Financial Commissioner, Punjab and submitted his Power of Attorney and the matter was adjourned to 22.03.2024. On 22.03.2024, again Court was not held and the matter was adjourned to 26.04.2024, on which date, learned counsel for the petitioner could not attend the hearing and the matter was adjourned to 03.05.2024. On 03.05.2024, the matter was again adjourned to 17.05.2024 at the request made on behalf of proxy counsel for the petitioner. It is submitted that on 17.05.2024, again learned counsel for the petitioner could not appear before the Financial Commissioner, as he was arguing some matter before this Court, and accordingly, a request for adjournment was made on behalf of learned counsel for the petitioner, however, the same did not find favour with the Financial Commissioner and the revision petition (ROR No.1241 of 2023) was dismissed for non-prosecution on 17.05.2024. Thereafter, the petitioner submitted an application seeking restoration of the revision petition (ROR No.1241 of 2023), but the same, was also dismissed for want of prosecution by the Financial Commissioner, Punjab, vide impugned order dated 18.10.2024 (Annexure P-3).

6.1 Learned counsel for the petitioner has assured this Court that in case, the revision petition (ROR No.1241 of 2023) is restored to its original number and status, on the file of the Financial Commissioner, Punjab then

the petitioner would not seek any further adjournment and appear regularly before the Financial Commissioner to put forth his case.

7. On the other hand, learned State counsel has opposed the submissions made by learned counsel for the petitioner.

8. Heard.

9. The learned Financial Commissioner, Punjab dismissed the application seeking restoration of main revision petition (ROR No.1241 of 2023), filed by the petitioner, vide order dated 18.10.2024 (Annexure P-3) by observing as under:-

“ - x - x -

3. Counsel for the petitioner/applicant submitted restoration application dated 22.05.2024. It was pleaded in the restoration application that Counsel was busy in arguing his case before the Hon'ble Punjab and Haryana High Court.

4. The case was taken up today but it is found that neither the petitioner nor any Counsel on his behalf was present in the court. It shows that laxity on the part of the petitioner/applicant. It seems that the petitioner is not interested to pursue his case. He is interested only to protract the litigation on one or other pretext. The Courts cannot allow such waste of time of Court.

5. Accordingly, the restoration application is dismissed for want of prosecution and non-presence.”

9.1 A perusal of the aforesaid order dated 18.10.2024 (Annexure P-3) clearly shows that on one hand, the presence of counsel for the petitioner duly stands recorded in the order, however on the other hand, the Financial Commissioner has made the observation in paragraph No.4 that neither the petitioner nor any counsel on his behalf was present in the Court. The aforesaid two facts are irreconcilable.

10. In my considered view, in case the arguing counsel for the

petitioner was not present, the matter could have been adjourned by the Financial Commissioner for a short date, may be subject to payment of some costs, to be paid by the petitioner, however, no such recourse was taken.

11. Be that as it may, keeping in view the aforesaid circumstances as well as the assurance given by learned counsel for the petitioner before this Court, to which, I see no good reason to doubt; I deem it appropriate to set aside order dated 18.10.2024 (Annexure P-3) passed by the Financial Commissioner, Punjab, and restore the application (Misc. No.67/2024 in ROR-1241-2023) seeking restoration of main revision petition (ROR No.1241 of 2023) to its original number and status, on the file of the Financial Commissioner, Punjab; however, subject to payment of costs of Rs.20,000/-, to be deposited by the petitioner with ***“Punjab and Haryana High Court Bar Clerks' Association (Account No.65004775776, S.B.I. High Court Branch)”***.

12. The present writ petition is accordingly disposed of with a direction to the petitioner to appear before the Financial Commissioner, Punjab through his counsel on 27.05.2025 or any other date as may be fixed by the Financial Commissioner, Punjab. It is expected that the petitioner/learned counsel for the petitioner would abide by the assurance given before this Court. Learned Financial Commissioner, Punjab is requested to take up the aforesaid restoration application (Misc. No.67/2024 in ROR-1241-2023) and decide the same, in accordance with law.

13. All pending application(s), if any, shall also stand closed.

30.04.2025

Apurva

(HARSH BUNGER)

JUDGE

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|--------------------------------|--------|
| 1. Whether speaking/reasoned : | Yes/No |
| 2. Whether reportable : | Yes/No |