



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

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CWP-32443-2024

Date of Decision: 14.01.2025

Jagtar Singh

....Petitioner

Versus

State of Punjab and others

....Respondents

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MR. JUSTICE VIKAS SURI**

Present: Mr. S.K.Singla, Advocate for the petitioner.

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

Sureshwar Thakur, J. (Oral)

1. The present petitioner instituted an appeal under Section 7(2) of the Punjab Village Common Lands (Regulation) Act, 1961 (hereinafter for short called as the 'Act of 1961'), against the order dated 17.03.2017 (Annexure P-2), as made by the Collector concerned, whereby, the eviction petition filed by the Gram Panchayat concerned under Section 7 of the 'Act of 1961', has been accepted.

2. 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 02 years and 06 months (920 days) in filing the appeal, thus, became appended therewith. Through a decision made on the said delay application, on 15.05.2024 (Annexure P-5), the learned Commissioner concerned, dismissed the application supra in filing



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the said appeal.

3. The aggrieved therefrom, the present petitioner approached this Court and reared thereagainst a writ petition under Section 226/227 of the Constitution of India, for the issuance of a '*writ in the nature of certiorari*', for quashing and setting aside the impugned order dated 15.05.2024 (Annexure P-5) passed by the learned Commissioner concerned.

4. The learned counsel for the petitioner submits that respondent No.2, without considering the facts and circumstances of the case, dismissed the application seeking condonation of delay of 02 years and 06 months (920 days) 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, thus, proceeded to dismiss 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, 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, an ill informed reason, the impugned order (supra) became passed.

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8. In consequence, the impugned order, as carried in Annexure P-5 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 six 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 06.02.2025.

11. Disposed of accordingly.

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

(SURESHWAR THAKUR)
JUDGE

(VIKAS SURI)
JUDGE

January 14, 2025*Varinder*

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No