



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

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CWP-630-2025

Date of Decision: 14.01.2025

Mahinder Kaur (since deceased) through LRs

....Petitioners

Versus

Joint Development Commissioner (IRD) and others

....Respondents

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

Present: Mr. Jatinder Singla, Advocate and
Ms. Shivani Singla, Advocate
for the petitioners.

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

Sureshwar Thakur, J. (Oral)

1. 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 30.01.2019 (Annexure P-2), as made by the Collector concerned, whereby, the title suit filed by the petitioner under Section 11 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 92 days in filing the appeal, thus, became appended therewith. Through a decision made on the said delay application, on 06.08.2024 (Annexure P-9), the learned Commissioner concerned, condoned the delay of 92 days in filing the said appeal.



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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 the issuance of a '*writ in the nature of certiorari*', for quashing and setting aside the impugned order dated 06.08.2024 (Annexure P-9) passed by the learned Commissioner concerned.

4. The learned counsel for the petitioners submits that respondent No.1, without considering the reply of the respondents therein, petitioners herein, and, the submissions of their counsel rather passed a cryptic and non-speaking order thus condoning the delay in the filing of 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 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, 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-9 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 05.02.2025.

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