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

CWP-15312-2025 (O&M)

Date of Decision : 08.04.2026

BALWINDER SINGH AND ORS

.... Petitioners

VERSUS

STATE OF PUNJAB AND ORS

.... Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

HON'BLE MR. JUSTICE RAMESH CHANDER DIMRI

Present : Ms. Rubi Khokhar, Advocate for
Mr. Malkiat S. Hundal, Advocate for the petitioners.

Mr. Kuljeet Singh, Addl. AG Punjab for respondents No.1 to 3.

Mr. B.S. Mann, Advocate for respondent No.4.

ALKA SARIN, J. (ORAL)

1. Challenge in the present writ petition is to the order dated 18.03.2025 (Annexure P-6) vide which the appeal bearing No.87 of 2025 titled as 'Balwinder Singh & Ors. Versus Collector-cum-Divisional Deputy Director Panchayat, Jalandhar & Anr.' was dismissed only on the ground that the said appeal was filed with a delay of 238 days.

2. Brief facts relevant to the present *lis* are that the petitioners herein filed a suit under Section 11 of the Punjab Village Common Land Act, 1961 for declaration to the effect that they are the owners in possession of the land measuring 23 Kanal 7 Marla bearing Khasra No.44/4/2 (4-0), 44/7 (8-0) 8/2 min (2-6) 13 min (3-6) Khata Khatauni No.295/594, 612, 613 as per Jamabandi for the year 1995-96 situated at Uggar Aulakh, Tehsil Ajnala,

District Amritsar as fully described in the suit. The Collector vide order dated 22.05.2024 dismissed the suit filed by the petitioners herein. Aggrieved by the same an appeal was preferred by the petitioners. The said appeal was filed along with an application for condonation of delay of 238 days. In the application for condonation of delay it was specifically stated that though the case was prepared in August 2024, however, the same could not be filed as the wife of the counsel was admitted in PGI, Chandigarh. Medical certificate of the wife of the counsel was also appended with the application. The said application was also accompanied by an affidavit of the counsel. The Commissioner vide order dated 18.03.2025 dismissed the appeal only on the ground of delay. Hence, the present writ petition.

3. Learned counsel for the petitioners would contend that the appeal was filed with an application for condoning the delay along with an affidavit of the counsel and as such a lenient view ought to have been taken. It is further the contention of the learned counsel that valuable rights of the petitioners are being affected inasmuch as the appeal was against their suit having been dismissed under Section 11 of the Punjab Village Common Land Act, 1961.

4. *Per contra*, learned counsel for the respondents have vehemently contended that the appeal had rightly been dismissed on the ground of delay.

5. We have heard the learned counsel for the parties and perused the entire record.

6. In the present case the petitioners filed a suit under Section 11 of the Punjab Village Common Land Act, 1961 which was dismissed by the Collector vide order dated 22.05.2024. The appeal against the said order was

stated to have been prepared by the counsel in August 2024, however, the same could not be filed as the wife of the counsel was admitted in PGI, Chandigarh. The application for condonation of delay was accompanied by an affidavit of the counsel. Even the medical certificate of the wife of the counsel was also appended with the application for condonation of delay. The Hon'ble Supreme Court in the case of **Inder Singh Versus The State of Madhya Pradesh [2025 SCC Online SC 600 = 2025 INSC 382]** has held as under :

'13. In the present case, the contentions of the appellant, on first blush appears to be attractive, inasmuch as the State cannot be given any undue indulgence as compared to an ordinary litigant, especially in matters of limitation. There is no doubt that all parties, whether or not State under Article 123 of the Constitution, are required to act with due diligence and promptitude.

14. There can be no quarrel on the settled principle of law that delay cannot be condoned without sufficient cause, but a major aspect which has to be kept in mind is that, if in a particular case, the merits have to be examined, it should not be scuttled merely on the basis of limitation.

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16. The Court in Ramchandra Shankar Deodhar v State of Maharashtra, (1974) 1 SCC 317 held:

'10. ...There was a delay of more than ten or twelve years in filing the petition since the accrual of the

cause of complaint, and this delay, contended the respondents, was sufficient to disentitle the petitioners to any relief in a petition under Article 32 of the Constitution. We do not think this contention should prevail with us. In the first place, it must be remembered that the rule which says that the Court may not inquire into belated and stale claims is not a rule of law, but a rule of practice based on sound and proper exercise of discretion, and there is no inviolable rule that whenever there is delay, the Court must necessarily refuse to entertain the petition. Each case must depend on its own facts. The question, as pointed out by Hidayatullah, C.J., in Tilokchand Motichand v. H.B. Munshi [(1969) 1 SCC 110, 116 : (1969) 2 SCR 824] “is one of discretion for this Court to follow from case to case. There is no lower limit and there is no upper limit It will all depend on what the breach of the fundamental right and the remedy claimed are and how the delay arose’.

In the present case cogent reasons have been given for the delay in filing the appeal.

7. In view of the above, the order dated 18.03.2025 (Annexure P-6) cannot be sustained and the same is accordingly set aside. The matter is

remanded back to the Commissioner concerned for a decision afresh on merits after affording an opportunity of hearing to all the parties concerned. The application for condonation of delay stands allowed. The parties shall appear before the Commissioner concerned on 22.04.2026 at 10:00 am. The Commissioner concerned is directed to decide the matter within a period of six months today in accordance with law.

8. Pending applications, if any, also stand disposed off.

(ALKA SARIN)
JUDGE

(RAMESH CHANDER DIMRI)
JUDGE

08.04.2026
Aman Jain

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: Yes/No