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(2001) 01 P&H CK 0106

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 1269 of 1999

Prem Chand APPELLANT

Vs

Financial Commissioner (Appeals) Haryana and Others RESPONDENT

Date of Decision : 15-01-2001

Acts Referred:
Punjab Land Revenue Act, 1887 — Section 13, 14

Citation : (2002) 1 RCR(Civil) 107

Hon'ble Judges : N.K. Sud, J;Jawahar Lal Gupta, J

Bench : Division Bench

Advocate : G.K. Chawla, for the Appellant; Palika Monga, A.A.G. and Praduman Yadav, for the Respondent

Judgement

Jawahar Lal Gupta, J.—On 20.6.1996 the Collector, Gur-gaon, selected and appointed the petitioner as the village Headman. Aggrieved by the order, the third respondent filed an appeal before the Commissioner on 9.6.1997. Commissioner accepted it vide order dated 18.9.1997. A copy of this order has been produced as Annexure P-4 with the writ petition. Aggrieved by the order of the Commissioner, the petitioner filed a revision petition before the Financial Commissioner. It was dismissed vide order dated 8.10.1998. A copy of this order has been produced as Annexure P-8 with the writ petition. The petitioner filed a review petition which was dismissed vide order dated 23.11.1998. A copy of the order is on record as Annexure P-10. Hence this petition. The petitioner prays that the orders, copies of which have been produced on record as Annexures P-4, P-8 and P-10, be quashed.

2. Notice of motion was issued. Written statement has been filed by the third respondent.

3. Counsel for the parties have been heard.

4. Mr. Chawla contends that appeal filed by the third respondent was totally barred by limitation. The Commissioner entertained the appeal without

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examining this issue. The matter was again raised before the Financial Commissioner in revision as well as in the review petition. The Financial Commissioner has found that there was delay and yet rejected the claim of the petitioner. Thus, the counsel submits that the impugned orders cannot be sustained. On the other hand, Mr. Yadav, appearing for the third respondent, contends that the factum of delay was duly mentioned in the appeal. Thus, it was within the knowledge of the Commissioner. The appeal having been accepted, it should be presumed that the delay was condoned.

5. The order passed by the Financial Commissioner makes an interesting reading. A perusal of which shows that the Financial Commissioner was clearly of the view that the appeal filed by the third respondent was "hopelessly time barred". It was further noticed that the Commissioner had not "given any reason for condonation of delay". In fact, the issue was not even adverted to. Despite these findings, the revision petition filed by the present petitioner was dismissed.

6. It is not disputed that there was delay in filing of the appeal. The issue of delay has not been considered by the Commissioner. In this situation, we are unable to sustain the impugned orders, copies of which have been produced as Annexures P-4, P-8 and P-10. Since, we are remitting the matter, we are saying no more.

7. The impugned orders are set aside. The matter is remitted to the Commissioner for a fresh decision after hearing the parties. It shall be appreciated if me matter is decided expeditiously.

8. The writ petition is, accordingly, disposed of. No costs.

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