

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

**CWP-27759-2025 (O&M)**  
**Date of decision :17.09.2025**

MAHABIR (DECEASED) THROUGH LRs & ANOTHER

...Petitioners

Versus

FINANCIAL COMMISSIONER, HARYANA AND OTHERS

...Respondents

**CORAM: HON'BLE MR. JUSTICE HARSH BUNGER**

Present : Mr. P.R. Yadav, Advocate  
for the petitioner.

Mr. Kapil Bansal, D.A.G., Haryana.

**HARSH BUNGER, J. [ORAL]**

Prayer in the present writ petition, filed under Article 226 of the Constitution of India, is for issuance of a writ in the nature of *certiorari*, for setting aside the order dated 09.04.2024 (Annexure P-11) passed by the learned Collector, Rewari; order dated 06.08.2024 (Annexure P-17) passed by the learned Commissioner, Gurugram Division, Gurugram and order dated 30.07.2025 (Annexure P-21) passed by the learned Financial Commissioner, Haryana.

2. Briefly, the petitioners and/or their predecessor-in-interest are stated to be in cultivating possession of land measuring *21 kanal-12 marlas* within the revenue estate of village Gurawara, Tehsil and District Rewari, since the year 1932 onwards. It appears that the petitioners were ordered to be ejected from the afore-said land by the concerned Assistant Collector

and the said ejectment order was further affirmed by the learned Collector, Rewari; however, a revision preferred by the petitioners was accepted. It appears that subsequently, the private respondent herein filed a revision petition before the learned Financial Commissioner, who set aside the Commissioner's order and affirmed the orders passed by the Subordinate authorities. It is noticeable that none of the orders, as referred above, have been placed on record. Be that as it may, it transpires that the matter came up before this Court in a writ petition (**CWP-13224-2009**) filed by the petitioners herein, which came to be disposed of by this Court along with two other writ petitions (lead case being **CWP-12503-2009**) vide order dated 21.03.2012 (Annexure P-1), by observing as under :-

*"I have considered rival contentions of the learned counsel for the parties. The AC 1<sup>st</sup> Grade has not discussed any evidence with regard to the fact that private respondent/plaintiff is a small land owner. The findings are based on the fact that petitioners/respondents have not produced any evidence to show that private respondent/plaintiff is a big land owner. It is the only finding and no evidence has been discussed in this regard by AC 1<sup>st</sup> Grade, Collector and Financial Commissioner. The orders of the AC 1<sup>st</sup> Grade, Collector and Financial Commissioner are non speaking, as such are not sustainable in the eye of law and are hereby set aside.*

*In view of the above, case is remanded to AC 1<sup>st</sup> Grade to decide issue No.1 by recording a specific finding with reference to the revenue record specifically the jamabandi etc. However, petitioners will be bound to pay the entire arrears of rent before the date of appearance, if not already paid, failing which order of ejectment can be passed for non payment of rent. The AC 1<sup>st</sup> Grade is directed to decide issue No.1 within two months from the date of appearance of the respective*

*parties. The parties through their respective counsel are directed to appear before AC 1<sup>st</sup> Grade Rewari on 24.4.2012.”*

2.1 Upon remand, the learned Assistant Collector, Rewari ordered ejectment of the petitioners from the afore-said property vide order dated 14.08.2012 (Annexure P-2). The afore-said order dated 14.08.2012 (Annexure P-2) was assailed by the petitioners by filing an appeal before the learned Collector, Rewari; however, it appears that the said appeal came to be dismissed in default vide order dated 13.01.2015 (Annexure P-5) passed by the learned Collector, Rewari.

2.2 It transpires that on 08.04.2024, the petitioners through their counsel filed an application (Annexure P-10) seeking restoration of the appeal, which was dismissed by the learned Collector vide order dated 09.04.2024 (Annexure P-11). A further revision petition preferred by the petitioners against the Collector's order was dismissed by the learned Commissioner, Gurugram vide order dated 06.08.2024 (Annexure P-17).

2.3 Still dissatisfied, the petitioners preferred a further revision (**ROR-272-2024**) before the learned Financial Commissioner, Haryana, which has been now dismissed vide order dated 30.07.2025 (Annexure P-21).

2.4 In the afore-mentioned circumstances, the present writ petition has been filed by the petitioners, before this Court, for the relief/s, as noticed here-in-above.

3. Heard.

4. Learned counsel for the petitioners contends that when the appeal preferred by the petitioners against their ejectment order dated 14.08.2012 was dismissed in default vide order dated 13.01.2015 (Annexure P-5), then they had immediately filed a restoration application in the year 2016; however, the file of the appeal before the learned Collector

went missing in the Office of the learned Collector itself. Thereafter, on the asking of the learned Collector, fresh application was submitted in the year 2024, for seeking restoration of the appeal (which was dismissed in default on 13.01.2015), however, the said application for restoration was dismissed by the learned Collector vide order dated 09.04.2024 (Annexure P-11). The learned Collector's order has been further affirmed by the learned Commissioner as well as the learned Financial Commissioner. It is, therefore, contended that the application for restoration of the appeal filed by the petitioners against their ejectment order has been wrongly dismissed by the authorities below as they had no control over the matter, inasmuch as that the Collector's file went missing and on that account, the petitioners cannot be made to suffer.

4.1 I have considered the afore-said contentions raised by learned counsel for the petitioners; however, I find no merit in the same.

5. Concededly, an ejectment order dated 14.08.2012 (Annexure P-2) was passed against the petitioners. The petitioners are stated to have challenged the afore-said ejectment order dated 14.08.2012 (Annexure P-2) by filing an appeal before the learned Collector, which came to be dismissed in default vide order dated 13.01.2015 (Annexure P-5).

5.1 The petitioners have placed on record an application dated 08.04.2024 (Annexure P-10) for seeking restoration of the appeal along with an application for condonation of delay before the learned Collector, the relevant extract of the said application seeking condonation of delay in filing the application for restoration of the appeal reads as under :-

*“1. That the above said appeal against the order dated 14-8-2012 was pending before your honour and was fixed for argument on merit.*

2. That the previous date i.e. 13-1-2015 was fixed before your honor, but due to fault and negligence of the clerk of the counsel for the appellant, he told the wrong date and on the basis of which the appeal was ordered to be dismissed in default on 13-1-2015 and this fact of dismissal of default had never been told to the counsel as well as communicated to the parties by the clerk of the counsel.

3. That the respondent on the basis of ejectment order dated 14-8-2012 wants to take possession of the suit land by got issuing warrant of possession, whereas appeal filed by appellants has not been decided on merits and dismissed in default, whereas application for restoration of the appeal has been filed before Collector, Distt. Rewari.

4. That order under appeal is illegal, without jurisdiction, being null void and nonest, because appellants have never been heard by Ld. Lower Court and the order dated 14-8-2012 was passed illegally without hearing the appellants/applicants.

5. That it is further submitted that appellants moved an application for depositing the arrears of rent and requested the Ld. Lower Court for calculating the interest as well as assessing the cost, but the Ld. Lower Court/officer refused to hear the prayer of the appellant and ordered ejectment of the appellant forthwith, whereas appellants are also small land owners and tenants and they were legally entitled to allotment of surplus area which is a mandatory provision in the PSLT Act 1952. But the Ld. Lower Court ignored the above said mandatory provisions of the law.

6. That if the respondent succeeded in obtaining the possession in guise of warrant of order of ejectment by revenue officer, then the appellant would suffer irreparable loss that compensated in terms of money.

7. That it is also settled principal of law that one should not be condemned unheard and opportunity of hearing must be given to the person affected.

8. *That it is also settled preposition of law that a party must not be suffered by the mistake of his counsel and clerk in the hearing of the appeal on merits.*

9. *That the application is being filed by the applicants which is legally maintainable and within limitation from the date of knowledge of the order dated 13-1-2015 dismissed in default in the month of March-2024 and if the Hon'ble Court deems that the application has not been moved in the limitation then the same may please be ordered to be condoned U/s 5 of Limitation Act and the appeal may please be heard on merits, so that justice could be done between the parties to the appeal."*

5.2 A bare perusal of the above extracted application for seeking restoration of the appeal filed before the learned Collector, Rewari would show that there is not even a single whisper as regards the case being set up by the petitioners in the present writ petition. Rather, in para 9 of the application, the petitioners have stated that they learnt about the order dated 13.01.2015 (Annexure P-5) in the month of March, 2024.

5.3 In view of the afore-said categoric stand taken by the petitioners that they learnt about the order dated 13.01.2015 (Annexure P-5) only in the month of March, 2024, the case now being set up by the petitioners before this Court is a complete departure from the contents of the application for restoration of the appeal filed before the learned Collector.

5.4 In case, the file was not traceable in the Office of the learned Collector and the petitioner was aware of the said fact then the petitioners could have brought the said fact to the notice of the concerned Court or any higher authority; however, no such recourse was taken. Even in the application seeking restoration of the appeal, no such ground has been stated.

5.5 In my considered view, the petitioners cannot be permitted to take a stand which is different from their stand pleaded in the restoration application.

6. Another fact, which requires to be noticed herein is that when the matter had earlier come up to this Court in **CWP-13224-2009** filed by the petitioners, a categorical direction was given by this Court that the petitioners herein will be bound to pay the entire arrears of rent, failing which, the order of ejection can be passed for non-payment of rent. The learned Financial Commissioner took notice of the said fact while dismissing the revision petition (**ROR No.272 of 2023-24**) filed by the petitioners, by observing as under :-

*“After thoughtful consideration, I am of the considered view that present revision petition deserves to be dismissed. It is not disputed that the respondent trust is fighting since 1998 to get the rent. The petitioners to obtain interim order of status quo regarding possession on 26.06.2024 from Commissioner, they have deposited a sum of Rs.1,71,277/- in the treasury as rent for the period of 2012 to 2024 without any assessment from the Competent Authority. Further, in terms of the order dated 21.03.2012 passed by the Hon’ble High Court, the petitioners were bound to deposit entire arrears of rent before the date of appearance. Despite that petitioners failed to deposit entire arrears of rent. Accordingly, the Assistant Collector 1st Grade rightly evicted the petitioners from the disputed land. Further, their counsel failed to appear before the Collector despite legal and effective service and he, as per the law, dismissed the appeal on 13.01.2015 of the petitioners due to non prosecution. Claim of the petitioners that they filed restoration application promptly in 2015 is unsupported by evidence or record. No copy of the alleged restoration application for 2015 has been produced in support the argument. As per the record petitioners filed three restoration*

*applications on 09.04.2024, more than 9 years after the appeals were dismissed. The Collector, Rewari, in the order dated 09.04.2024, rightly observed that no reasonable cause was shown in the applications to justify the restoration of the appeals. Moreover, Divisional Commissioner, Gurugram dismissed their claim finding no merit.*

*In view of above, the present revision petitions are dismissed as they are devoid of merits. And the order dated 14.08.2012 passed by the Assistant Collector 1st Grade, the order dated 09.04.2024 passed by the Collector, Rewari and the order dated 06.08.2024 passed by the Divisional Commissioner, Gurugram are upheld.”*

6.1 Learned counsel for the petitioners has failed to controvert the observations made by the learned Financial Commissioner, in the above extracted order dated 30.07.2025 (Annexure P-21).

7. No other point has been urged.

8. Considering the totality of circumstances and what has been stated above, I find no merit in the instant writ petition and the same is, accordingly, dismissed.

9. All pending applications (if any) shall also stand closed.

**September 17, 2025**  
gurpreet

**(HARSH BUNGER)**  
**JUDGE**

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No