

2025:PHHC:050970-DB



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

**LPA No. 2726 of 2024(O&M)
Date of Decision: 21.04.2025.**

Rajinder Kumar

.....Appellant

Versus

State of Haryana

..... Respondent

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. Vikram Singh, Advocate
for appellant.

LISA GILL, J.

1. Prayer in this appeal is for setting aside order dated 30.09.2024 passed by learned Single Bench, whereby writ petition i.e., CWP No. 25206 of 2024 filed by appellant/writ-petitioner has been dismissed.

2. Brief facts necessary for adjudication of the matter are that appellant/writ-petitioner filed the abovesaid writ petition for setting aside order dated 30.05.2024, passed by the Financial Commissioner, Haryana, whereby application i.e., CM-112 of 2023 seeking restoration of Misc. Application No. 34 of 2003-04 was dismissed on account of delay and laches. Zile Singh, predecessor-in-interest of present appellant/writ-petitioner along with others filed ROR No. 162/2000/01 before Financial Commissioner, challenging order dated 30.05.1995 passed by the Prescribed Authority, Panipat under Haryana Ceiling on Land Holdings Act (for short

‘Land Holdings Act), order dated 21.01.1997 passed by the Collector, Panipat and order dated 27.12.2000 passed by the Commissioner, Rohtak Division, Rohtak. Said revision petition was dismissed in default vide order dated 27.07.2004. Misc. Application No. 34 of 2003-04 was filed by revision petitioners for restoration of the said petition, but the said application was also dismissed in default on 05.05.2009. Another application i.e., CM-112 of 2023 was then filed seeking restoration of Misc. No. 34 of 2003-04. CWP No. 9596 of 2024 was filed by present appellant/writ-petitioner seeking a direction to the respondents to decide ROR No. 162/2000-01 as well as CM-112 of 2023 in a time bound manner. This writ petition was disposed of on 07.05.2024 directing the Financial Commissioner and Principal Secretary to Government of Haryana to decide the application seeking restoration on the date fixed itself i.e., 23.05.2024, in accordance with law, after hearing all concerned parties. CM-112 of 2023 was dismissed by Bench of Financial Commissioners, vide order dated 30.05.2024 which is reproduced as hereunder:-

“The present CM No. 112 of 2023 has been filed for restoration of another Misc. Application No. 34 of 2002-04.

In fact, earlier the ROR No. 162 was dismissed in default on 27.07.2024. An application No. 34 of 2003-04 was filed for restoration of the petition. However, the said application No. 34 of 2003-04 was dismissed in default on 05.05.2009. Thereafter, the petitioners filed the present application after a lapse of more than 13 years.

The petitioner’s counsel was heard but the counsel failed to explain the inordinate delay of 13 years. Finding no merit in it the CM No. 112 of 2023 is dismissed for being highly time barred.”

3. CWP No. 25206 of 2024 filed by present appellant/writ-petitioner challenging said order dated 30.05.2024 was dismissed by learned Single Bench vide impugned order dated 30.09.2024, while holding that there was no reason, leave alone a plausible and sufficient reason coming-forth for delay of more than 13 years in filing the restoration application i.e., CM-112 of 2023.

4. Aggrieved therefrom, present appeal has been filed.

5. Learned counsel for appellant vehemently argues that ROR No. 162 of 2000-01 was dismissed in default on 27.07.2004. Misc. Application No. 34 of 2003/-04 was filed, but it was dismissed in default on 05.05.2009. It is submitted that Division Bench of Financial Commissioner(s) was not constituted and appellant was informed that as and when such Bench is constituted, he would be informed, however no such information or notice was sent to appellant or his counsel and subsequent application No. 112 of 2023 for restoration of Misc. Application No. 34 of 2003-04 which sought restoration of revision petition has been incorrectly dismissed. Once the appellant was not even aware of the proceedings and it being a matter of record that the Division Bench had not been constituted, appellant should not be visited with such serious consequences. Appellant had sufficient cause for non appearance on 05.05.2009 and there is a clear and cogent explanation for the delay which has been incorrectly ignored by learned Single Bench. It is thus prayed that present appeal be allowed, impugned order dated 30.09.2024 passed by learned Single Bench be set aside and writ petition filed by appellant/writ-petitioner be allowed as prayed for.

6. We have heard learned counsel for the appellant and have

carefully perused the file. However, we do not find any ground whatsoever to interfere in this matter.

7. It is undeniable that revision petition i.e., ROR No. 162/2000-01 was dismissed in default on 27.07.2004. Misc. Application No. 34 of 2003-04 was dismissed in default on 05.05.2009 while specifically noting that neither petitioners nor their counsel was present despite proper service and that no written or oral request had been received. It is duly recorded that despite the case being called number of times, none had appeared. Application No. CM-112 of 2023 seeking restoration of Misc. Application No. 34 of 2003-04 was then filed on 18.03.2022 on the premise that clerk for the counsel for writ-petitioner as well as petitioner verified regarding listing of the case on numerous occasions, but every time they were informed that the matter would be listed as and when the Division Bench is constituted, but no notice was ever received by them. Their counsel assured that he would appear when the summons were received. It is on verification from another counsel that they came to know that their application for restoration had also been dismissed in default on 05.05.2009.

8. In our considered opinion, impugned order dated 30.09.2024 has been correctly passed. CM-112 of 2023 was correctly dismissed as it is crystal clear that there is not even a whisper of an explanation, leave alone sufficient explanation for the delay of more than 13 years. It is a settled position that a litigant has to be vigilant about his rights and cannot lie in deep slumber and thereafter seek adjudication of his *lis* after condonation of delay on grounds which are clearly specious. We do not find any merit in the argument raised by learned counsel for the appellant that at this stage

appellant can be put to some terms and the matter be directed to be decided on merits.

9. Learned counsel for the appellant/writ-petitioner is unable to point out any illegality or infirmity in impugned order dated 30.09.2024 passed by learned Single Bench, which calls for any interference by this Court.

10. No other argument has been raised.

11. Keeping in view the facts and circumstances as above, this appeal is dismissed with no order as to costs. Pending application(s), if any, stand(s) disposed of accordingly.

**(LISA GILL)
JUDGE**

**(SUDEEPTI SHARMA)
JUDGE**

April 21, 2025.
s.khan

Whether speaking/reasoned : Yes/No.
Whether reportable : Yes/No