

IN THE COURT OF LEARNED DEPUTY COMMISSIONER EXERCISING  
POWERS OF CHIEF SALES COMMISSIONER, SBS NAGAR

REFVENUE APPEAL NO. \_\_\_\_ OF 2009

State of Punjab, Deptt. of Forests, through its Divisional  
Forest Officer, Garhshankar, District Hoshiarpur.

...Appellant

Versus

1-Chanan Singh son of Puran Singh son of Jiwa Mal, resident  
of village Bana, tehsil Balachaur, Distt.SBS Nagar.

2-The Tehsildar Sales-cum-Managing Officer, Balachaur.

3. ~~SOM cum Sales Commissioner, Balachaur.~~

....Respondents

Application under section 5 of the Limitation  
Act, for condonation of delay in filing the  
appeal.

Sir:

The applicant submits as follows:-

1- That the applicant intends to file the accompanying  
appeal in this learned court against the orders passed by  
the Tehsildar (Sales), Balachaur, as well as, against the  
order passed by the learned SDM-cum-Sales Commissioner  
Balachaur, whereby, the sale made in favour of the  
respondents was confirmed.

2- That the applicant applied for certified copies and  
after obtaining the same, much of the time was consumed in  
processing the case at departmental channels and, thus, the  
appeal is being filed with no loss of time. The delay in  
filing the appeal crept in due to exhausting the  
departmental channels.

3- That in the above circumstances, the delay in filing  
the appeal is neither intentional nor willful but was for  
the reasons stated above.

4- That there are fairly arguable points involved in the  
appeal and the appeal is most likely to succeed and the  
impugned orders being set aside.

5- It is, therefore, prayed that the delay in filing the  
appeal may kindly be condoned in the interest of justice  
and the appeal may be heard and decided on merits.

APPLICANT

THROUGH; SHRI HL SUMAN ADVOCATE, NAWANSHAHAR

DATED: 9.2.10

Summon  
respondents & case file  
Notice  
23/2/10  
Recd  
9/2/10  
Recd

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Versus

1-Chanan Singh son of Puran Singh son of Jiwa Mal, resident  
of village Bana, tehsil Balachaur, Distt.SBS Nagar.

2-The Tehsildar Sales-cum-Managing Officer, Balachaur.

3-The SDM-exercising powers of Sales Commissioner,  
Balachaur, Distt.SBS Nagar.

....Respondents

APPEAL AGAINST THE ORDERS DATED 27.10.2008  
PASSED BY THE SDM CUM SALES COMMISSIONER,  
BALACHAUR CONFIERMING THE ORDER PASSED BY  
TEHSILDAR SALES-CUM-MANAGING OFFICER, BALACHAUR,  
DISTRICT SBS NAGAR.

**CLAIM IN APPEAL:**

To set aside the impugned orders under appeal  
by accepting the appeal and for setting aside  
the consequential sale of protected land made  
by respondent No.2, in favour of respondent No.I.

**GROUNDS OF APPEAL:**

1- That the impugned order, dated 27.10.2008 passed by  
the learned SDM-cum-Sales Commissioner, Balachaur affirming

the sale of protected land made e by the Tehsildar (Sales)-cum-Managing Officer, Balachaur in favour of respondent No.1, and consequently executed deed of conveyance in favour of respondent No.1 of protected forest land, is against law and facts and, as such, is liable to be set aside.

2- That the learned lower court failed to appreciate the peculiar facts of the case, as well as, the law on the subject and passed the impugned order in a most mechanical manner, which has caused grave mis carriage of justice to the appellant.

3- That the learned lower court passed the impugned order in a criminal haste in as much as, it lost sight of the fact that the land sought to be conveyed in favour of respondent No.1 was protected forest land, having been declared so by the Punjab Govt. vide its Gazetted Notification No. 860-FT-III-71/1454, dated 16.8.1971 under the Indian Forests Act, and that being so, it could neither be put to sale nor it could be put to any other purpose than for purpose of forests.

4- That the alleged sale of the forest land has been made at the back of the appellant. Neither any notice was ever served upon the appellant nor any opportunity of being heard was ever provided to the appellant and the respondent No.2, made the sale of the forest land in a hush hush manner, without even feeling the necessity of issuing a formal notice to the appellant. The land in question is recorded as forest land in the revenue record and forest deptt. is recorded to be the owner of the same, in the column of ownership of the jamabandi. That being so, firstly, the land under no circumstances, could be put to sale and secondly, if at all, any sale was to be made, the appellant was required to be given notice, and its objections should have been solicited and given an opportunity of being heard, before ordering the sale of the land in favour of respondent No.1. The alleged sale by respondent No.2 has been made in favour of respondent No.1 by putting at stake all the norms and rules and regulation, wich is sheerly violative of the guidelines of the Hon'ble Supreme Court of India. It rather shows the connivance between the respondents No.1&2, to cause loss to the appellant and more ~~x~~over it is against the public policy.

- 5 That the impugned order is based on sheer conjectures and surmises and lacks judicial appraisal. It is no order in the eyes of law and deserves to be set aside.
- 6 That the learned lower court passed the impugned order on sheer conjectures and surmises rather than applying its critical judicial mind to the facts of the case. The impugned order in fact is no order in the eyes of law and thus deserves to be set aside.
- 7 That the appeal is ~~not~~<sup>not</sup> within time, *an application vs 5 of Limitation act is being filed.*
- 8 It is therefore, prayed that the impugned order under appeal may kindly be set aside by accepting the appeal and the case may kindly be remanded back to the lower court for fresh decision according to law.


### VERIFICATION

Verified that the contents contained in the above paras from 1 to 8 of this appeal are true and correct to the best of my knowledge.

PLACE: NAWANSHAHR


DATED: 08.09.2010

Appellant through D.F.O  
Garhshankar

  
Appellant through D.F.O.  
Garhshankar

THROUGH: COUNSEL

SH. V.K. BALI, ADVOCATE,  
BALACHAUR, (S.B.S. NAGAR)

  
HARMESH SUMAN  
Advocate  
Distt. Courts Complex  
Chamber No. 41, S.B.S. Nagar  
Enr. No 533/1992