

Krishna Devi Vs. State of Haryana and Others

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Court : Punjab and Haryana

Decided On : Oct-05-2013

Appellant : Krishna Devi

Respondent : State of Haryana and Others

Judgement :

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH LPA No.274 of 2009 DATE OF DECISION : 05.10.2013 Krishna Devi ...APPELLANT Versus State of Haryana and othersRESPONDENTS CORAM :- HON'BLE Mr.JUSTICE SATISH KUMAR MITTAL HON'BLE Mr.JUSTICE MAHAVIR S.

CHAUHAN Present: Mr.Rakesh Gupta, Advocate, for the appellant.

Mr.Indresh Goel, Addl.

A.G., Haryana.

*** SATISH KUMAR MITTAL, J.

(Oral) Krishna Devi, who was Sarpanch of Gram Panchayat, Village Saanch, Tehsil Pundri, District Kaithal, from April, 2000 to April, 2005, has filed the instant Letters Patent Appeal against the order dated 3.2.2009, passed by the learned Single Judge, whereby the writ petition (CWP No.13865 of 2007) filed by the appellant challenging the order dated 13.6.2006 (Annexure P-4) passed by the Block Development and Panchayat Officer, Pundri, initiating the proceedings

under Section 53 (2) of the Haryana Panchayati Raj Act, 1994 (hereinafter referred to as 'the Act') against her for recovery of the amount on account of loss caused by her to the Gram Panchayat; as well as the orders dated 1.5.2007; and 21.8.2007 (Annexures P-7 and P-8) dismissing the appeal and revision petition filed by the appellant against the said order, was dismissed.

Dass Narotam 2013.10.09 14:27 I attest to the accuracy and integrity of this document LPA No.274 of 2009 -2- We have heard learned counsel for the parties and gone through the impugned order passed by the learned Single Judge.

It has not been disputed before us that while assessing the loss caused to the Gram Panchayat, the appellant was thoroughly associated in the enquiry and after providing her an opportunity of hearing, the said amount of loss was assessed.

Though before the learned Single Judge, the appellant disputed the said recovery to the tune of ` 3,78,120/- (which has already been deposited by the appellant, as there was no stay).but a finding has been recorded that the said loss was rightly assessed, after providing due opportunity of hearing to the appellant.

Now, in this appeal before us, learned counsel for the appellant has made a legal submission that initiation of the proceedings for effecting recovery of the loss caused to the Gram Panchayat was time barred, as according to sub-section (5) of Section 53 of the Act, such loss cannot be recovered from the delinquent Panch or Sarpanch, after the expiry of six years from the occurrence of the loss, waste or misappropriation or after the expiry of two years from his or her ceasing to be a Sarpanch or Panch, as the case may be, whichever is earlier.

Learned counsel argued that in the present case, the appellant ceased to be Sarpanch of the Gram Panchayat with effect from April, 2005, and the starting point of limitation of two years is to be counted from the said date.

Thus, when the Deputy Commissioner passed the order for recovery of the said amount on 1.5.2007, it was barred by that time.

It has not been disputed that the alleged occurrence causing loss to the Dass Narotam 2013.10.09 14:27 I attest to the accuracy and integrity of this document

LPA No.274 of 2009 -3- Gram Panchayat took place in the year 2003 and the said event was within the period of six years from the occurrence of loss.

After hearing learned counsel for the appellant, we do not agree with the submission made by learned counsel for the appellant.

In our opinion, the period of limitation of two years will commence from April, 2005, when the appellant ceased to be Sarpanch of the Gram Panchayat.

As such, the period of two years of limitation had not expired on 13.6.2006, when the Block Development and Panchayat Officer, Pundri, initiated proceedings under Section 53 (3) of the Act.

The contention of learned counsel for the appellant that limitation of two years is to be counted upto the date of the order dated 1.5.2007, passed by the Deputy Commissioner, is not sustainable, because neither the order of the Deputy Commissioner is the primary order, nor the Deputy Commissioner is the competent authority to initiate proceedings for causing loss to the Gram Panchayat.

The said order was passed by the Deputy Commissioner as the Appellate Authority.

Therefore, the said order cannot be taken as relevant for counting the period of two years. This is the only contention raised in this appeal, which in our opinion is without any substance.

Dismissed.

(SATISH KUMAR MITTAL) JUDGE October 05, 2013 (MAHAVIR S.

CHAUHAN) ndj JUDGE Dass Narotam 2013.10.09 14:27 I attest to the accuracy and integrity of this document

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