

## Chander Bhan Vs The Municipal Corporation and Others

**Court:** High Court Of Punjab And Haryana At Chandigarh

**Date of Decision:** April 26, 2001

**Acts Referred:** Constitution of India, 1950 " Article 226

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

**Bench:** Division Bench

**Advocate:** A.P. Bhandari, for the Appellant; Rakesh Garg, for the Respondent

**Final Decision:** Dismissed

### Judgement

Jawahar Lal Gupta, J.

The petitioners pray that the orders dated June 27, 1986 and July 31, 1996, passed by the Assistant Collector,

IIInd Grade and the Financial Commissioner be quashed. Copies of these orders have been placed on record as Annexures P2 and P6

respectively.

2. A written statement has been filed on behalf of respondent No. 1.

3. Counsel for the parties have been heard.

4. This writ petition was posted before a Bench of which one of us (Jawahar Lal Gupta, J.) was a member, on July 6, 2000. The counsel was

asked to explain as to why the petitioners had challenged the order dated July 31, 1996 by filing the petition on April 6, 1999. The counsel had

sought time to explain the delay. Time was granted. The case has come up for hearing today.

5. Chander Bhan-petitioner No. 1 has filed an affidavit. It has been averred that an application for supply of a copy of the order had been filed on

August 13, 1996. The petitioners are illiterate persons. They were not aware of the fact that they had a remedy against the order of the Financial

Commissioner. When they visited Chandigarh in March, 1999, to enquire about the position of Civil Writ Petition No. 4469 of 1988, they were

advised that the writ petition can be filed.

6. We are not satisfied with the explanation given on behalf of the petitioners. There is an inordinately long delay in approaching the Court. The writ

petition deserves to be dismissed on this ground alone.

7. Irrespective of the above, we have heard the counsel on merits of the case.

8. It has been urged that in view of the judgment of the Civil Court, the view taken by the revenue authorities cannot be sustained.

9. Indisputably, Balbir, the predecessor-in-interest of the petitioners had filed a civil suit for the issue of a permanent injunction with the prayer that

the respondent-Administration should be restrained from interfering in his possession and that he should not be dispossessed forcibly.

10. It is the admitted position that the respondent are not dispossessing the present petitioners, who are the successors-in-interest of Balbir,

forcibly. In fact, Balbir had filed an application for correction of the Khasra Girdawari relating to Rabi 1985. He claimed to be in cultivating

possession of the land and wanted that the entry made by the Patwari should be corrected. This claim was considered by the Assistant Collector

IInd grade. The dispute was decided vide order dated June 27, 1986. A copy of this order is at Annexure P-2 with the writ petition. It was held

that out of a total area of 24 Kanals, he was in possession of 13 Kanals 10 Maras, as a gair marasti tenant. He filed an appeal. It was dismissed by

the Collector. The petitioners have not produced the copy of the order passed by the Collector. He filed a revision before the Commissioner,

which was forwarded to the Financial Commissioner by the Commissioner with a recommendation for acceptance. However, the Financial

Commissioner declined the reference vide order dated July 31, 1996. It was found that the petitioner had "continued to cultivate a part of the land

in question unauthorisedly even after the expiry of patta (tease) and non-cultivation of the remaining part of the land by him in Rabi 1985 amounted

to giving up possession on the portion of land." Thus, the orders passed by the Assistant Collector IInd Grade and the Collector were upheld.

Nothing has been pointed out to show that there is an illegality in the order passed by the Financial Commissioner.

11. Before parting with the case, we may also observe that the petitioners have not produced any lease-deed on record. Nothing has been pointed

out to show that they have any right or title in the property. Thus, there is no equity in favour of the petitioners. No ground for interference under

Article 226 is made out.

12. Resultantly, the petition is dismissed with costs.

13. Costs are quantified at Rs. 5,000/-.