

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

CR No.6784 of 2013

Date of decision : 28.08.2015

Estate Officer, Excised Area, Ambala Sadar

...Petitioner

Versus

Rajinder Singh and ors.

...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

1. Whether reporters of local newspapers may be allowed to see judgment ?
2. To be referred to reporters or not ?
3. Whether the judgment should be reported in the Digest ?

Present: Mr. Bakkar Bhan, Advocate for
Mr. V.S. Bhardwaj, Advocate for petitioners.

Mr. Arun Jain, Sr. Advocate with
Mr. Kushagra Mahajan, Advocate &
Mr. Deepak Basatia, Advocate for respondent Nos.1 to 6.

AMIT RAWAL, J. (Oral)

Challenge in the present petition is to the order dated 06.09.2012, whereby appeal filed by the petitioner-defendants against the judgment and decree dated 31.07.2009 has been dismissed being barred by limitation & also on ground of maintainability.

Mr. Bakkar Bhan, Advocate for Mr. V.S. Bhardwaj, Advocate for the petitioners submits that previous appeal was filed at the instance of Municipal Council, Ambala, Sadar through its Executive Officer and whereas present appeal has been filed on behalf of Estate Officer, Excise

Area, Ambala Sadar, Ambala Cantt., and, therefore, there occurred delay in filing the appeal. He further submits that suit had been instituted against the Estate Officer, Excised Area, Ambala, Saddar/Ambala Cantt and not against Municipal Council, through its Executive Officer, whereas it was Municipal Council whose President has been arrayed as defendant No.3.

Mr. Arun Jain, learned Senior counsel assisted by Mr. Kushagra Mahajan, Advocate for the respondents submits that against the judgment and decree dated 31.07.2009, civil appeal bearing No.79/2009 was instituted on 27.08.2009 which had been dismissed on merits vide judgment and decree dated 11.05.2010 and in the said proceedings even Executive Officer of Municipal Council had also put in appearance through counsel.

He further submits that as per the circular issued by the Local Government, Municipal Committee, power of Estate Officer has been delegated to the Executive Officer to pursue the matter in Courts and, therefore, there was no inherent defect in the appeal, much less, appeal has been decided on merits. The Lower Appellate Court had dismissed the appeal on the ground that second appeal against the same judgment and decree was not maintainable as the appellant had suffered a decree dated 11.05.2010.

I have heard learned counsel for parties and appraised the paper book.

It is matter of record that Civil Appeal No.79 of 2009 filed by the petitioner-defendant against Civil Suit No.155-CS dated 23.10.2002 had been dismissed on merits vide judgment and decree dated 31.07.2009 and

had attained finality.

There is no provision of law that against the same very judgment and decree, Second appeal by the same authority can be filed by changing the nomenclature particularly when the Executive Officer of the concerned Municipal Council has been delegated the power of the Assistant Estate Officer. There is no ambiguity and illegality, much less, perversity in the order dismissing the application accompanied by the appeal seeking condonation of delay.

In view of what has been observed above, revision petition is devoid of merits.

Accordingly, same is dismissed.

28.08.2015

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**(AMIT RAWAL)
JUDGE**