

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

LPA-294-2015 (O&M)
Date of decision:- 26.02.2015

National Horticulture Board

...Appellant

Versus

M/s Rana Chiller Private Limited

...Respondent

CORAM: HON'BLE MR. JUSTICE S.J. VAZIFDAR, ACTING CHIEF JUSTICE
HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Sanjiv Dahiya, Advocate,
for the appellant.

Mr. Sanjiv Gupta, Advocate,
for the caveator-respondent.

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S.J. VAZIFDAR, A.C.J. (ORAL)

CM-582-LPA-2015

This is an application for condoning 119 days' delay in filing the appeal.

For the reasons mentioned in the application, the delay of 119 days in filing the appeal is condoned.

Disposed of.

LPA-294-2015

Notice of motion.

Mr. Sanjiv Gupta, learned counsel accepts notice on behalf of the caveator-respondent.

Caveat discharged.

2. The learned Single Judge held that the decree having been passed in favour of the respondent is not an impediment to the consideration of the OTS proposal submitted by the respondent. The learned counsel was unable to invite our attention to any provision in the OTS scheme of the appellant

which prohibits the consideration of the OTS proposal on the ground that a decree has already been passed. He relied upon the following provisions of the scheme:-

“1. Applicability

(c) These guidelines will also cover cases pending before courts/DRT/BIFR subject to condition that the Managing Director shall be the competent authority for keeping any case in abeyance by moving an application before the concerned court with the prayer for adjourning the suits sine-die. However, after the entire settlement about has been realized as per guidelines, the Managing Director shall be the competent authority to withdraw the civil suit.”

3. This clause firstly does not refer to cases where a decree has been passed. It in fact suggests that the pendency of the proceedings is not a ground for not considering a proposal for an OTS. The learned Single Judge, therefore, was justified in staying the execution of the decree till the OTS application is decided. We are informed that the properties have already been attached. The execution proceedings may proceed in respect of any other properties of the respondent. However, the properties already attached or any other properties in respect of which execution is sought shall not be sold till the OTS proposal is decided and for a period of 04 weeks thereafter in the event of it being rejected.

4. The appeal is accordingly disposed of with the impugned order being modified to the above extent.

(S.J. VAZIFDAR)
ACTING CHIEF JUSTICE

(AUGUSTINE GEORGE MASIH)
JUDGE

26.02.2015
Amodh