

In the High Court of Punjab and Haryana, at Chandigarh

Letters Patent Appeal No. 80 of 2015

Date of Decision: 03.12.2015

Devi Dayal and Another

... Appellants

Versus

The State of Haryana and Others

... Respondents

**CORAM: Hon'ble Mr. Justice Satish Kumar Mittal.
Hon'ble Mr. Justice Shekher Dhawan.**

Present: Mr. Som Nath Saini, Advocate
for the appellants.

Mr. Sandeep Moudgil, Additional Advocate
General, Haryana for respondents No.1 to 4.

Satish Kumar Mittal, J.(Oral)

The instant intra-court appeal under Clause-X of the Letters Patent has been filed by the appellants, who are petitioners No.1 & 2 in the writ petition (CWP No. 22264 of 2014), against the interim order dated 8.12.2014 passed by learned Single Judge, whereby the writ petition filed by them was dismissed on the ground of delay and laches, whereas qua petitioner No.3, notice was issued.

It is an undisputed fact that as far as the writ petition qua petitioner No.3 is concerned, it is going on. The State Government has sought time therein to file reply and now it is fixed for 12.4.2016.

After hearing learned counsel for the parties, we are of the opinion that once the learned Single Judge is issuing notice in the writ

petition qua petitioner No.3, then at that stage, the writ petition qua the petitioners No.1 & 2, who are the appellants herein, would not have been dismissed as the reply qua all the petitioners should have been sought and in case, on the basis of averments made in the pleadings, the learned Single Judge found any delay and laches in filing the writ, then the relief to be awarded to the petitioners could have been molded.

In view of the fact that the writ petition is already pending before the learned Single Judge, this appeal is allowed and the order passed by the learned Single Judge dismissing the said petition qua the appellants is set aside. It will be open for the State to take the pleas of defence on delay and laches in the written statement filed qua the petitioners No.1 & 2, who are the appellants herein.

(Satish Kumar Mittal)
Judge

(Shekher Dhawan)
Judge

December 3, 2015

"DK"