

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

CACP-2-2016 (O&M)

Pronounced on : 11th February, 2016

Sarvesh Kaushal, IAS and others

.... Appellants

VERSUS

**Gram Panchayat, Bari Karoran
through its Sarpanch**

..... Respondent

CORAM: **HON'BLE MR. JUSTICE RAJIVE BHALLA**
HON'BLE MS. JUSTICE LISA GILL

Present: **Mr.Ashok Aggarwal, Advocate General, Punjab, with
Mr.Vinod S. Bhardwaj, Addl.A.G., Punjab and
Mr.Mukul Aggarwal, Addl.A.G., Punjab, for the appellants.**

**Mr.Puneet Bali, Senior Advocate, with
Mr.Vibhav Jain, Advocate, for the respondent/caveator.**

RAJIVE BHALLA, J.
CM-1559-CII-2016

Prayer in this application is to condone delay of 74 days
in filing the appeal.

Notice in the application.

Counsel for the respondents, who is on caveat, states that
he has no objection, if the delay is condoned.

For reasons stated in the application and statement made
by counsel for the respondent/caveator, the application is allowed
and delay of 74 days in filing the appeal is condoned.

CM-1561-CII-2016

CM is allowed and Annexures A-1 to A-16 are taken on

record.

CACP-2-2016 (O&M)

The appellants have filed this appeal, under Section 19 of the Contempt of Courts Act, 1971 read with Section 151 of Civil Procedure Code, 1908, against orders dated 07.10.2015 and 11.12.2015, passed in COCP-831-2015.

The Gram Panchayat Bari Karoran, Tehsil and District, Mohali through its Sarpanch, filed COCP-831-2015, praying that the appellants herein be punished for violation of order dated 28.05.2015, passed in CWP-22756-2013, requiring them to identify forest land and carry out appropriate development work as per the final master-plan and in notified area committee Naya Gaon. During pendency of proceedings, certain interim orders were passed issuing directions particularly directions contained in orders dated 07.10.2015 and 11.12.2015. The appellants filed CACP-9-2015 against these orders which was dismissed as withdrawn by passing the following order: -

“Learned counsel for the appellants wishes to withdraw the present appeal, at this stage.

Dismissed as withdrawn at this stage.”

Counsel for the respondent/caveator has raised a preliminary objection that as the appeal was dismissed as withdrawn, at this stage and no other directions have been issued or orders passed so as to confer a right upon the appellants to approach this

Court once again. Counsel for the respondent/caveator also submits that the learned contempt court has not taken any final decision in the matter and has only raised certain queries and asked the appellants to answer them. Even if some preliminary findings may have been recorded as no final conclusion has been recorded, the appeal is premature particularly in view of the earlier appeal challenging these orders having been dismissed as withdrawn, at this stage.

The learned Advocate General, Punjab, appearing for the appellants, while admitting the aforesaid facts, states that as the contempt court had recorded certain findings, the appellants filed an appeal. The appeal may have been dismissed as withdrawn but as thereafter the contempt petitions have been adjourned, a cause of action still accrues to the appellants to challenge the impugned orders. The interim orders, impugned in this appeal, clearly prove that certain findings have been recorded and would definitely operate to the detriment of the appellants and even if the matter has not been finally concluded, are binding upon the appellants.

We have heard counsel for the parties and while we desist from making a detailed reference whether to the facts or the merits of the impugned order, are of the opinion that as an appeal challenging the correctness of orders, impugned herein, was dismissed as withdrawn, “at this stage” and no further orders or directions having been passed or issued, the mere fact that contempt proceedings may have been adjourned for further proceedings or that these orders are

detrimental to the appellants, cannot be a ground to allow the appellants to agitate the matter once again. The appellants, in our considered opinion, would be required to await any further consequential orders and or the conclusion of proceedings.

Consequently, while dismissing the appeal, “at this stage”, we grant liberty to the parties to file an application for modification/clarification of any order passed in contempt proceedings but are constrained to observe that the situation obtaining in the contempt petition is of the making of the appellants and the State of Punjab and it is for them to ensure clarity in the matter and that developmental aspirations of residents of Gram Panchayat Bari Karoran are addressed, without resort to dilatory tactics.

[RAJIVE BHALLA]
JUDGE

11th February, 2016
shamsher

[LISA GILL]
JUDGE