

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

CACP-4-2016 (O&M)

Pronounced on : 11th February, 2016

N.S.Kang and others

.... Appellants

VERSUS

Sukhwinder Singh and others

..... Respondents

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 caveator/respondent No.1.

Mr.Ashish Aggarwal, Senior Advocate, with
Mr.Kulwant Singh, Advocate, for respondent No.4.

RAJIVE BHALLA, J.
CM-2270-CII-2016

Prayer in this application is to condone delay of 83 days
in filing the appeal.

Notice in the application.

Counsel for respondents No.1 and 4 state that they have
no objection, if the delay is condoned.

For reasons stated in the application and statement made
by counsel for respondent No.1 and 4, the application is allowed and
delay of 83 days in filing the appeal is condoned.

CM-2272-CII-2016

CM is allowed and Annexures A-1 and A-20 are taken on

record.

CACP-4-2016 (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-2108-2015, passed as common orders in COCP-831-2015 and COCP-2108-2015.

The respondents filed a contempt petition alleging willful and deliberate violation of orders dated 28.05.2014, 11.07.2014, 17.07.2014, 21.07.2014, passed in CWP-22756-2013 as well as order dated 04.07.2014, passed in CWP-1134-2004. The appellants are aggrieved by certain interim orders/directions contained in orders dated 07.10.2015 and 11.12.2015 which they seek to impugn as illegal and beyond jurisdiction. The appellants filed CACP-9-2015 arising from COCP-831-2015 challenging these common orders which was dismissed as withdrawn by passing the following order: -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Dismissed as withdrawn at this stage.”

Counsel for respondents No.1 and 4 have raised a preliminary objection that as the appeal was dismissed as withdrawn, at this stage and no other directions have been issued or orders passed, nothing new or different has transpired so as to confer a right upon the appellants to approach this Court once again. Counsel for

respondents No.1 and 4 also submits that the learned contempt court has not taken any final decision in the matter and has only raised certain queries and directed 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 and not maintainable particularly in view of the earlier appeal challenging the common 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 contempt proceedings were adjourned for hearing of the matter, the cause of action still accrues to the appellants to challenge orders passed by the contempt court. The interim orders challenged in the appeal clearly prove that certain findings that would necessarily bind the appellants have been recorded and would definitely operate to the detriment of the appellants even if the matter has not been finally concluded. The learned Advocate General, Punjab also submits that as the appellants did not file an appeal in the present contempt petition, the objection raised by the respondents is not tenable.

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 a similar appeal

challenging the correctness of these common orders impugned herein was filed and dismissed as withdrawn, “at this stage”, and no further orders or directions having been passed or issued, the mere fact that the 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. As regards the submission that appeal was not filed in the present contempt petition, suffice it to state that the contempt petition is being taken up together with COCP-831-2015 and common orders are being passed.

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 that developmental aspirations of the residents of the area are addressed.

[RAJIVE BHALLA]
JUDGE

11th February, 2016
shamsher

[LISA GILL]
JUDGE