

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

CACP-5-2016 (O&M)

Pronounced on : 11th February, 2016

Sarvesh Kaushal and others

.... Appellants

VERSUS

Anandi Devi 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.Ashwani Chopra, Senior Advocate, with
Mr.Gursher Bhandal, Advocate,
for caveator/respondent No.1.

RAJIVE BHALLA, J.

CM-2277-CII-2016

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

Notice in the application.

Counsel for respondent No.1, 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 respondent No.1, the application is allowed and delay
of 83 days in filing the appeal is condoned.

CM-2279-CII-2016

CM is allowed and Annexures A-1 and A-22 are taken on

record.

CACP-5-2016 (O&M)

The appeal, under Section 19 of the Contempt of Courts Act, 1971 read with Section 151 of Civil Procedure Code, 1908, arises from orders dated 07.10.2015 and 11.12.2015, passed in COCP-1808-2015, passed as common orders in COCP-831-2015 and COCP-2108-2015.

Rajinderpal and others filed CWP-9868-2008, for a direction to the respondents to include the entire area falling within the revenue boundaries of villages Naada and Karoran, tehsil and district Mohali, in the notified area committee and for directing the appellants herein to decide their representations Annexures P3 to P5 by taking into consideration the legal opinion, Annexure P6, proffered by the office of the Advocate General Punjab. The writ petition was disposed of with a direction to the respondents to decide representations, Annexures P3 to P5, within 8 weeks. The representations were disposed of by issuing certain directions but by primarily holding that the opinion proffered by the Advocate General, Punjab, should be kept in abeyance till the final outcome of judicial proceedings pending before the Supreme Court.

The respondents aggrieved by this order and other orders, filed COCP-1808-2015 which was tagged with COCP-831-2015, wherein certain common interim orders were passed which have been made subject matter of the present appeal.

Counsel for respondent/caveator has raised a preliminary objection that as the appeal was dismissed as withdrawn, at this stage, and no other directions have been issued or orders passed, nothing new or different has transpired so as to confer a right upon the appellants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 which the appellants have been asked to answer. Even if some preliminary findings may have been recorded as no final order has been passed, the appeal is not only premature and misconceived but is also not maintainable particularly in view of the earlier appeal challenging the same 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 respondent 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, without expressing any opinion on the merits and 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 as it is for them to ensure

clarity in the matter and that the developmental aspirations of residents of the area, are addressed without resort to dilatory tactics.

[RAJIVE BHALLA]
JUDGE

11th February, 2016
shamsher

[LISA GILL]
JUDGE