

CWP No.3887 of 2015

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

CWP No.3887 of 2015
Date of decision: 31.03.2016

Shailender Singh Sangwan

....Petitioner

Versus

Permanent Lok Adalat, Public Utility Services and others

....Respondents

CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH DHALIWAL

- 1) Whether Reporters of the local papers may be allowed to see the judgment ?
- 2) To be referred to the Reporters or not ?
- 3) Whether the judgment should be reported in the Digest ?

Present: - Mr. Pavan Malik, Advocate, for the petitioner.
Mr. Randhir Singh, Addl. A.G., Haryana.
Mr. Deepak Sharma, Advocate,
for Mr. Sandeep Kotla, Advocate, for respondents No.2 and 3.

PARAMJEET SINGH DHALIWAL, J. (ORAL)

Instant writ petition under Articles 226/227 of the Constitution of India has been filed for issuance of a writ in the nature of *certiorari* for quashing the order dated 20.08.2013 (Annexure P-2) passed by respondent No.1 whereby complaint filed by the petitioner was dismissed in default as well as the order dated 02.01.2014 (Annexure P-4) passed by respondent No.1 whereby the application filed by the petitioner for restoration of the case dismissed in default, has been dismissed.

Shorn of unnecessary details, the facts relevant, narrated in the writ petition, to disposal of present petition are that petitioner was

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allotted a flat of 2250 sq. ft. in the society of respondent No.2, which was affirmed by respondent No.3 vide letter dated 02.06.2010 addressed to the petitioner. Thereafter, in need of money petitioner desired to surrender/transfer the membership. As a result of it, respondent No.3 got the signatures of the petitioner on some papers and blank forms claiming it to be necessary for the surrender/transfer of membership and gave a cheque No.444945 dated 18.10.2011 for Rs.7,50,000/- payable at Oriental Bank of Commerce, Sector 32, Gurgaon, representing the amount invested by the petitioner in the society as well as the membership fee. Petitioner presented the said cheque in bank for encashment, however, the same was dishonoured on account of "funds insufficient". Petitioner approached respondents No.3 and 4 for redressal of his grievance but in vain. Thereafter, petitioner filed an application before respondent No.1 for amicable settlement of the matter, however, the same was dismissed in default vide order dated 20.08.2013 (Annexure P-2). Thereafter, petitioner moved an application for restoration of the aforesaid application, the same has been dismissed in default vide order dated 02.01.2014 (Annexure P-4) by respondent No.1. Hence, this writ petition.

I have heard learned counsel for the parties and perused the record.

Learned counsel for the petitioner vehemently contended that non-appearance of the petitioner was not intentional but due to the sad

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demise of the learned counsel for the petitioner before respondent No.1. Immediately after coming to know about the dismissal of the application, petitioner filed application for restoration of the application, which has been illegally dismissed in default by respondent No.1. The learned counsel further contends that the petitioner should not be made to suffer for no fault on his part.

Per contra, the learned counsel for respondents No.2 and 3 contends that application has rightly been dismissed as the petitioner did not appear even to prosecute the application for restoration. There is no illegality in the impugned orders.

I have considered the rival contentions of learned counsel for the parties.

Perusal of record shows that absence of petitioner to prosecute the application for amicable settlement was not intentional rather it was due to demise of the learned counsel for the petitioner before respondent No.1. The Court below ought not to have dismissed the application for restoration of the main application merely on technicalities. A party cannot be made to suffer merely on technicalities which has in fact resulted into unnecessary burden and harassment to him. Rules of procedure are handmaid to the administration of justice and are meant to meet the ends of justice and not to thwart or obstruct the same.

In view of the peculiar facts and circumstances of the present case and to meet the ends of justice, order dated 02.01.2014 is set aside

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and application moved by the petitioner for restoration of main application is restored to its original number. Respondent No.1 shall proceed with the application in accordance with law.

Disposed of.

(Paramjeet Singh Dhaliwal)
Judge

March 31, 2016
R.S.