

Sr. No.207

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-680-2015(O&M)

Date of Decision: 16.11.2016

Mukhtiar Inder Kaur and others

.....Petitioners

VS.

State of Punjab and others

.....Respondents

CORAM HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present:- Mr. H.S.Brar, Advocate for the petitioners.

Mr. B.M.Vinayak, DAG, Punjab.

-:-

RAMESHWAR SINGH MALIK, J

Present writ petition is directed against the order dated 20.09.2013 (Annexure P14) passed by Sub Divisional Magistrate, Lehra and also the appellate order dated 27.10.2014 (Annexure P16) passed by Deputy Commissioner, Sangrur, whereby appeal of the petitioners was not decided on merits but was dismissed only on the ground of delay.

Notice of motion was issued and in compliance thereof, reply has been filed on behalf of respondents no.1 to 3.

Heard learned counsel for the parties.

Learned counsel for the petitioners places reliance on an order dated 20.01.2011 passed by this Court in **CWP No.4507 of 2010 (State of Punjab v. Sucha Singh and others)** (Annexure P12) to contend that a

similar petition filed by the State of Punjab was allowed by this Court and petitioners are also entitled for the similar relief, at the hands of this Court.

Confronted with the above said fact situation obtaining on the record of the case, learned counsel for the State could not address any meaningful argument to defend the impugned appellate order, whereby the appeal of the petitioners was admittedly dismissed not on merits but only on the ground of delay.

It is the settled proposition of law that every Court of law must make an endeavour to decide the *lis* on merits, instead of technicalities, including delay, unless its inordinate long and unexplained delay.

Having heard the learned counsel for the parties and after going through the record of the case, this Court is of the considered opinion that since the impugned order (Annexure P16) has been found suffering from patent illegality whereby the appeal of the petitioners was dismissed only on account of delay, the same cannot be sustained. The delay in filing the appeal shall stand condoned and the appellate authority – respondent no.3 shall consider the appeal of the petitioners on merits and decide the same by passing a fresh order, in accordance with law.

No other argument was raised.

In view of what has been observed here-in-above, impugned appellate order dated 27.10.2014 (Annexure P16) passed by the Appellate Authority, is hereby set aside. The case is remitted to the Appellate Authority i.e Deputy Commissioner, Sangrur, exercising the powers of Commissioner, Patiala Division, Patiala – respondent no.3, with a direction to consider the statutory appeal of the petitioners on merits and decide the same by passing an appropriate order, in accordance with law.

present writ petition stands allowed, however, with no order as to costs.

(RAMESHWAR SINGH MALIK)

November 16, 2016

JUDGE

mamta

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No