

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

Date of decision: 26.02.2016

CWP No.9975 of 2013

Ajit Singh

...Petitioner

Vs.

State of Punjab & others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. I.D.Singla, Advocate, for the petitioner(s).

Mr. Nikhil K. Chopra, DAG, Punjab.

RAJIV NARAIN RAINA, J. (ORAL)

This order will dispose of the above mentioned writ petition i.e. CWP No.9975 of 2013 as well as the writ petitions mentioned in the foot of this order, as common questions of law and facts are involved in them, in the light of and in terms of the order dated 10th March, 2014 passed by the learned Single Judge in CWP No.3946 of 2014 in case titled 'Ram Shah & others Vs. State of Punjab & others' with respect to the petitioners, who approached the court belatedly the petition has been dismissed, while for the remaining petitioners, the matter remains pending. In cases where the court did not apply the principle of delay, laches and limitation, if intra court appeals are pending in this court as informed, that to my mind is no reason to await the decision in the said appeals. The petitioner(s) are free to take recourse to their right of appeal.

At this stage, Mr. I.D. Singla has insisted that while dismissing the petitions the Court to record in this order that the order passed by the learned Single Judge in Ram Shah's case dismissing the petitions of some of the

petitioners is *per incuriam* in view of the judgments of the Supreme Court in M.R.Gupta vs. Union of India & others, (1995) 5 SCC 628 and Union of India vs. Tarsem Singh, (2008) 8 SCC 648 as well as the Full Bench judgment of this Court in Saroj Kumar & others vs. The State of Punjab, 1998 (3) RSJ 350.

While accepting the request, I would say at the same time, that Mr. Singla may also cite the decision of the Supreme Court in State of Uttar Pradesh & others Vs. Arvind Kumar Srivastava, (2015) 1 SCC 347 [para.23] on delay and laches, stale claims vis-à-vis limitations, recurring causes of action, the effect of judgments in *rem* and in *personam* on rights of fence-sitters in the background of judicial orders. He may also usefully see among others the ruling of the Constitution Bench of the Supreme Court in State of Madhya Pradesh Vs. Bhailal Bhai, AIR 1964 SC 1006 on discretionary power under Article 226 of the Constitution and belated approach to court where a suit, if filed, to obtain the same relief is barred by time, then it would ordinarily be prudent not to interfere in the writ jurisdiction. The only exception is where fundamental rights are involved and invoked, and then a petition should normally not be dismissed on the jejune ground of delay and laches. The petitioners would be at liberty in appeal to so urge and also to cite the decisions relied on (*supra*), the liberty which in any case is their right which requires no declaration being fundamental to the rule of law. They would also be at liberty to press their cases from the point of view of continuing wrong and recurring loss leading to injury everyday with each new dawn and every month and the passing years.

Mr. Singla is free to raise these contentions in appeal and not expect an adjournment to await final outcome of the appeal against an order partially dismissing the petition with respect to some of the petitioners who are in the same boat. Judicial propriety demands uniformity in decision making at

first sight among the Single Benches of this Court but this Court feels bound by the decision rendered by the coordinate Bench to honour it forthwith by dismissing the petitions.

Ordered accordingly.

26.02.2016
Vimal

[RAJIV NARAIN RAINA]
JUDGE

Sr. No.	Case Number	Parties Name
1.	CWP No.4523 of 2013	Makhan Singh & others Vs. State of Punjab & others
2.	CWP No.5593 of 2013	Kulwaran Singh & others Vs. State of Punjab & others
3.	CWP No.9583 of 2013	Mehal Singh & others Vs. State of Punjab & others
4.	CWP No.9588 of 2013	Gurbachan Singh & others Vs. State of Punjab & others
5.	CWP No.10146 of 2013	Pargat Singh Vs. State of Punjab & others
6.	CWP No.10231 of 2013	Kundan Singh Vs. State of Punjab & others
7.	CWP No.10346 of 2013	Harminder Lal Vs. State of Punjab & others
8.	CWP No.10347 of 2013	Dyal Singh Vs. State of Punjab & others
9.	CWP No.10477 of 2013	Gian Chand Vs. State of Punjab & others
10.	CWP No.10491 of 2013	Surinder Nath Vs. State of Punjab & others
11.	CWP No.10502 of 2013	Saminder Singh Vs. State of Punjab & others
12.	CWP No.10574 of 2013	Joginder Pal Singh Vs. State of Punjab & others
13.	CWP No.10629 of 2013	Saroop Singh Vs. State of Punjab & others
14.	CWP No.10637 of 2013	Machhinder Pal Vs. State of Punjab & others
15.	CWP No.10751 of 2013	Balbir Singh Vs. State of Punjab & others
16.	CWP No.10801 of 2013	Raksha Devi Vs. State of Punjab & others
17.	CWP No.12174 of 2013	Baljinder Kumar & others Vs. State of Punjab & others
18.	CWP No.12666 of 2013	Sham Charan & others Vs. State of Punjab & others
19.	CWP No.16228 of 2013	Sewa Singh & others Vs. State of Punjab & others
20.	CWP No.13670 of 2013	Kuldeep Singh & others Vs. State of Punjab & others
21.	CWP No.20980 of 2013	Ram Singh Vs. State of Punjab & others
22.	CWP No.22140 of 2013	Mool Raj Vs. State of Punjab & others
23.	CWP No.25534 of 2013	Gurnam Singh & others Vs. State of Punjab & others
24.	CWP No.2282 of 2016	Bachan Singh Vs. State of Punjab & others