

IN THE PUNJAB & HARYANA HIGH COURT AT CHANDIGARH

CM-11929-30-C-2016 In/&  
RSA-5540-2014  
Date of decision : 23.09.2016

Ajit Singh

... Applicant-appellant

Versus

District Excise and Taxation Commissioner (DETC), Narnaul and another

... Respondents

***CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH***

Present: Mr. Manoj Tanwar, Advocate  
for the applicant-appellant.

**AMOL RATTAN SINGH, J.(ORAL)**

**CM-11929-C-2016**

By this application, a delay of 71 days in filing the application for restoration of the appeal is sought to be condoned, on the ground that the appellant had initially taken away the brief of the appeal from counsel even before the date of dismissal of the appeal in default and thereafter, he returned the brief to counsel only three months later, thereby leading to the delay.

Consequently, for the reasons stated in the application, accompanied by the affidavit of the learned counsel himself, the application is allowed and the delay of 71 days in filing the application for restoration of the appeal is condoned.

**CM-11930-C-2016**

By this application, the appeal which had been dismissed for

original number. It has been stated in the application that before 20.05.2016 the appellant had taken away the brief of the appeal from counsel, as already noticed hereinabove and therefore, the appellant could not appear on 24.05.2016.

For the aforesaid reasons given in the application, accompanied by affidavit of learned counsel himself, the application is allowed and the appeal is ordered to be restored to its original number.

**RSA-5540-2014**

Since no notice has been issued in the main appeal itself, it is taken on Board for arguments today itself.

Vide order dated 10.05.2016, learned counsel had been directed to address arguments as to whether there would be a bar on the jurisdiction of the civil court to entertain any suit in respect of a licence granted under the excise policy of the State, in view of Section 57 of the Punjab Excise Act, 1914.

Section 57 of the aforesaid Act, as applicable to the Haryana reads as under:-

***“Section 57 for Haryana.***

***[57. Bar of suit.-(1) No suit or other proceedings shall be entertained or continued in any civil court against withdrawal or amendment of a licence, permit and pass for any damages, remission or compensation on the ground that any loss is sustained by the withdrawal or amendment thereof.***

***(2) No suit shall lie in any civil court against the Government or any officer or person for damages for any act done in good faith or ordered to be done in pursuance of this Act or of any other law for the time being in force relating to the excise revenue.]”***

Today, learned counsel has submitted that he has not been able to cite any law by which the bar contained in Section 57 can be held to be not applicable to the present lis, which originates in the filing of the civil suit by the appellant, seeking a decree of injunction against the respondents from recovering a certain sum of money from him, that was sought to be recovered as permit fee due to the respondent-State, during the period when the liquor vend in question is stated to have been closed, allegedly due to rioting.

In view of the fact that the suit itself was not maintainable, the appeal as also suit itself is sought to be withdrawn, with liberty to challenge the orders on the same cause of action, before an appropriate forum.

Dismissed as withdrawn with the aforesaid liberty. Obviously all pleas, including those available to the appellant under Section 14 read with Section 5 of the Limitation Act 1963, would be available to him to take up before the appropriate forum.

**(AMOL RATTAN SINGH)**  
**JUDGE**

**September 23, 2016.**

*Davinder Kumar*

Whether speaking / reasoned

Yes/No

Whether reportable

Yes/No