

(115) **RA-RS-131-C-2016 and
CM-14604-C-2016 in
RSA-1261-2009
Decided on: November 03, 2016.**

.... Appellant/Non-applicant

..... Respondents/Applicants

M.M.S. BEDI, J (ORAL)

Learned counsel for the applicants has submitted that by misconstruing the observations of this Court, the non-applicant has filed an execution application without disclosing that all the alternative benefits have been drawn by the family of Tulsi Ram and in view of said

circumstances, the relief of compassionate appointment is not available to the appellant (non-applicant) but despite the said fact an order of attachment of immovable property of the State has been passed.

On asking of the Court, learned State counsel informs that a civil revision i.e. CR No.3748 of 2015 filed before this Court, is pending for 07.11.2016. He has further argued that the executing Court has directed the applicants to seek clarification of the order as such the present application for review has been filed along with an application for condonation of delay of 2527 days.

I have heard learned counsel for the State and I am of the opinion that language of order dated 22.10.2009 is absolutely clear regarding the conditions in which non-applicant could seek compassionate appointment under the Scheme. So far as the maintainability of the execution application is concerned, the objections, if any, already filed by the State, are required to be determined as per provisions of Section 47 CPC read with Order 21 Rule 101 CPC. In case, any attachment order has been passed, the said attachment order can always be set aside in the exercise of powers under Order 21 Rule 58 CPC. If any, adverse order is passed, the said order would be appealable.

In view of various alternative remedies, under the law available to the State, the review application as well as the application for condonation of delay are disposed of as not maintainable at this stage.

Disposal of this review application will not in any manner prejudice the right of the State to avail the other remedies available to it.

November 03, 2016
harsha

(M.M.S. BEDI)
JUDGE

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