

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

**RA-CR No.10-CII of 2016 in
CR No.8423 of 2015
Date of decision:15.01.2016**

Jaswinder Pal Singh

... Petitioner

Versus

Parminder Singh and others

... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

1. Whether reporters of local newspapers may be allowed to see judgment?
2. To be referred to reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Mr. Sumeet Mahajan, Senior Advocate with
Mr. Amit Kohar, Advocate
for the applicant/respondent No.1.

Mr. Akshay Bhan, Senior Advocate with
Mr. Vaibhav Sehgal, Advocate
for the non-applicant/petitioner.

AMIT RAWAL J. (Oral)

Prayer in the application is for recalling of the order dated 10.12.2015 vide which of the aforementioned revision petition was disposed of.

Mr. Sumeet Mahajan, learned Senior counsel assisted by Mr. Amit Kohar, Advocate for the applicant/respondent No.1, in support of his application, has raised the following arguments:-

i) Non-applicant/petitioner has obtained the order by stating the fact that caveat was filed on 03.11.2015, whereas, ex parte stay order was granted on 31.10.2015 and caveat was filed on 05.10.2015 which was registered on 06.10.2015 this fact is noticed in the order of Court below at page 35 of the application, vide Annexure A-2.

ii) He further submits that against the impugned order dated 07.11.2015, review petition had been filed, therefore, revision petition was not maintainable.

iii) Interim order dated 31.10.2015 was valid till the next date of hearing, i.e., 10.11.2015 and the same was not extended thereafter.

Notice of the application to the opposite side.

On asking of the Court, Mr. Vaibhav Sehgal, Advocate accepts notice on behalf of the non-applicant/petitioner.

Mr. Akshay Bhan, learned Senior counsel assisted by Mr. Vaibhav Sehgal, Advocate has raised the following arguments:-

i) A copy of the review petition was attached as Annexure P-7 and thus, there cannot be an intentional act of concealment.

ii) The track report of postal receipt annexed as Annexure P-10 shows that alleged caveat sent to the non-applicant/petitioner remained un-delivered.

iii) The act of the Court prejudices none. It was the

duty of the Court to ascertain as to whether any caveat has been filed or not because no note could have been mentioned in the appeal vis-a-vis receipt or non-receipt of caveat.

iv) He further submits that his client would not be averse in addressing the arguments in main appeal, in case, the appropriate directions are issued to the lower Appellate Court.

I have heard learned counsel for the parties and appraised the application seeking recalling of the order.

No doubt, against the impugned order dated 07.11.2015 non-applicant/petitioner had filed review dated 10.11.2015. Since interim order was valid upto 10.11.2015 but the same was vacated much before, i.e., on 7.11.2015, therefore, in my view, filing of review and its pendency would be totally farcical exercise. It is yet to be adjudicated upon whether caveat petition purported to have been sent through registered post had actually delivered to the non-applicant/petitioner or not or whether envelope actually been contained the caveat application or not. Photocopies of the postal receipts are not accompanied by the application seeking modification of the order.

It is settled law that act of the Court prejudices none. In case, office attached to lower Appellate Court, has not brought to its notice the factum of caveat, non-applicant/petitioner cannot be said

to be at fault. Since the appeal is slated for arguments on 27.01.2016, I deem it appropriate that instead of pondering upon the merits and demerits of the case, vis-a-vis registration of the caveat, contents of envelope etc., to issue appropriate directions to the lower Appellate Court to decide the pending appeal within a period of one month from the date of receipt of certified copy of this order.

Review application stands disposed of.

It is made clear that nothing mentioned in the order sought to be modified shall not come in the way of the parties, vis-a-vis merits of the matter, in essence, the lower Appellate Court shall decide the appeal uninfluenced with the findings rendered in this order.

**(AMIT RAWAL)
JUDGE**

January 15, 2016
savita