

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

CA-CWP-6-2017 (O&M) in

CWP-COM-56-2017

Date of decision:- 07.12.2017

Surinder Kumar Gupta

...Appellant

Versus

Union Territory, Chandigarh Administration, U.T.
Secretariat, Chandigarh through its Advisor to the Ld.
Administrator, U.T., Chandigarh, U.T. Civil
Secretariat, Sector 9, Chandigarh and others.

...Respondents

CORAM: HON'BLE MR. JUSTICE S.J. VAZIFDAR, CHIEF JUSTICE
HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Present:- Mr. Amar Vivek, Advocate,
Mr. Rohit Handa, Advocate,
for the appellant.

Mr. Suvir Sehgal, Senior Standing Counsel,
with Mr. Jaivir S. Chandail, Advocate,
and Mr. Akshay Sethi, Advocate,
for the respondents.

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S.J. VAZIFDAR, C.J. (ORAL)

CM-35-CA-CWP-2017

Leave is granted to place on record the additional affidavit filed on behalf of the appellant and the application is allowed.

CA-CWP-6-2017 in CWP-COM-56-2017

This is an appeal against the order of the learned Single Judge dated 21.03.2017 dismissing the petitioner's (appellant herein) writ petition challenging an order dated 23.02.2017 passed by the Adviser to the Administrator, U.T., Chandigarh dismissing his revision petition against the order dated 22.09.2014 passed by the Chief Administrator, U.T.,

Chandigarh in an appeal against the order dated 23.06.2010 (communicated on 19.10.2010) passed by the Estate Officer by which an allotment of the house to the appellant by a letter dated 18.04.1985 was cancelled.

2. The revisional authority who passed the impugned order dated 23.02.2017 dismissed the appellant's revision petition on the ground that it was filed after a delay of more than eight months.

3. The learned Single Judge dismissed the writ petition on the ground that the appellant had not made out a case for condonation of delay. The learned Single Judge noted that there is no hard and fast rule as to whether such applications for condonation of delay ought to be granted or not. Before the revisional authority and the learned Single Judge, there was the affidavit of an advocate in which it was stated that he had been engaged by the appellant, but that he later assigned the matter to his associate on account of his having joined the office of the Advocate General, Haryana. Unfortunately, there was some lapse on the part of the associate advocate. It cannot be said that there was gross negligence on the part of the associate advocate as according to her soon thereafter she was not in active practice. Before the revisional authority, the associate advocate did not file her affidavit as she was ill for a prolonged period of time from November, 2014 to January, 2016. The associate advocate had filed the affidavit before the learned Single Judge.

4. We are inclined to take a sympathetic view in view of the predicament that the appellant finds himself in. He had on his part engaged an advocate. Unknown to him, that advocate had assigned the matter to his associate on account of his having joined the office of the Advocate General, Haryana. The

associate advocate unfortunately took ill and was not in active practice. She ought to have in that case taken steps to protect the appellant's interests as she was bound to. We, however, do not see any reason why the consequences of the default, if any, on the part of the advocate ought to be visited upon the appellant to such a drastic extent. The ends of the justice require the appellant to have an opportunity of defending the case on merits.

5. In these circumstances, the impugned order and judgement of the learned Single Judge dated 21.03.2017 is set aside. The order of the revisional authority impugned in the writ petition dated 23.02.2017 is also set aside. The matter is remanded to the revisional authority - the Adviser to the Administrator, U.T., Chandigarh for a decision on merits. The appellant and/or his advocate shall attend the office of the revisional authority on 18.12.2017 at 11.00 AM in the first instance. The office of the revisional authority shall on that date intimate the date of the first hearing of the matter to the appellant. The appellant and/or his advocate shall thereafter appear before the revisional authority on such date without further notice.

The appeal is accordingly disposed of.

(S.J. VAZIFDAR)
CHIEF JUSTICE

(HARINDER SINGH SIDHU)
JUDGE

07.12.2017

Amodh

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