

In the High Court of Punjab and Haryana at Chandigarh

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**CR No. 3960 of 2016 (O&M)
Date of decision:21.11.2017**

DALBIR SINGH

.....petitioner

Versus

HARI SINGH & ORS.

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr.B.S.Tewatia, Advocate,
for the petitioner.

Mr.Jagjot Singh, Advocate
for the respondents.

RAJ MOHAN SINGH, J (oral)

Petitioner has challenged the order dated 24.5.2016 passed by Additional Civil Judge (Sr.Divn.) Hodal, whereby application filed by the petitioner under Order 7 Rule 11 CPC was dismissed.

Election to the post of Sarpanch in the Gram Panchayat was held on 10.1.2016. Petitioner was declared to be elected for the post of Sarpanch. The election to the post of sarpanch could have been challenged within a period of 30 days from the date of declaration of the election result. The election petition should have been filed up to 9.2.2016.

Petitioner filed an application under Order 7 Rule 11 CPC and the same was dismissed by the Tribunal on the premise that in CWP No. 2789 of 2016, decided on 11.2.2016. the High Court has directed the petitioners to approach the appropriate forum and, thereafter, petition has been filed within limitation. In the order dated 11.2.2016, passed in aforesaid CWP No.2789 of 2016, it was observed that a statutory remedy of election petition is available to the petitioners for which Civil Court has been notified as Election Tribunal. Writ petition was not entertained and petitioners were relegated to the alternative remedy of election petition. Further directions were made that in the event of filing an election petition, the same shall be decided by the Election Tribunal within a period of six months. Perusal of the aforesaid order does not show that any limitation for filing the election petition was enlarged, nor the original limitation can be condoned in any manner.

Learned counsel for the petitioner relies upon **Parkasho vs. Bholi Devi, 2013 (1) RCR (Civil) 93** and contended that the election petition could have been filed within a period of 30 days from the date of declaration of the result. The permission granted by the High Court to avail alternative remedy would not enlarge the limitation, nor the same was granted by the High Court while deciding CWP No.2789 of 2016 on 11.2.2016. Grant of liberty to avail alternative remedy would

not ipso facto amount to condone the delay

In view of above, I deem it appropriate to set aside the impugned order dated 24.5.2016. As a consequence of this order, the application under Order 7 Rule 11 CPC stands allowed.

Petition stands disposed of accordingly.

(RAJ MOHAN SINGH)
JUDGE

November 21, 2017

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Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No