

In the High Court of Punjab and Haryana at Chandigarh

C.R.No. 4134 of 2017

Date of Decision:8.8.2017

Karamjit Kaur

---Petitioner

vs.

Maninder Singh and another

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. Omkar Rai, Advocate
for the petitioner

Rekha Mittal, J.

The present petition directs challenge against order dated 6.1.2017 passed by the Additional District Judge, Ludhiana whereby application for condonation of delay in filing the appeal was dismissed and consequently the appeal was also ordered to be dismissed.

The petitioner filed a suit for permanent injunction restraining the respondents from alienating, creating charge and transferring possession of plot measuring 340 square yards, detailed in the first para (unnumbered) of order dated 11.3.2014 (Annexure P-3) wherein application filed by the petitioner for extension of time for registration of the sale deed was dismissed and consequently suit filed by the petitioner was also ordered to be dismissed. Order dated 11.3.2014 (Annexure P-3) became subject matter of challenge before this Court by way of Civil Revision No. 3942 of 2014 decided on 10.7.2014 (Annexure P-5). The order passed by this Court was further challenged before Hon'ble the Supreme Court of India by way

of Special Leave Petition (Civil) to file appeal and plea of the petitioner did not find favour with the court and the case was disposed of on 6.1.2017. After losing the legal battle upto Hon'ble the Supreme Court of India, the petitioner started another bout of litigation by filing an appeal before the Court of District Judge, Ludhiana. Alongwith the appeal, an application for condonation of delay was filed and the same was dismissed by the appellate court vide order dated 6.1.2017, impugned in the present petition.

Counsel for the petitioner has submitted that as the trial court while deciding application for extension of time had also dismissed the suit, appropriate remedy to challenge the said order was to file an appeal under Section 96 of the Code of Civil Procedure, therefore, the petitioner preferred the appeal alongwith an application for condonation of delay. It is further submitted that the Court below has erred by dismissing the application as the settled position in law is that the Court should be liberal in condoning delay so that meritorious claims are not rejected on mere technicalities and procedural lapses.

I have heard counsel for the petitioner, perused the paper book particularly various annexures appended with the petition.

Perusal of the order dated 10.7.2014 passed by this Court in CR No. 3942 of 2014 would reveal that claim of the petitioner was rejected on merit and not on the ground of maintainability of the petition. A relevant extract from the order reads as follows:-

“In the considered view of this court, no fault can be found in the approach of the court as for three years the petitioner has unnecessarily wasted the time of the court as also of the

respondents by not adhering to her own statements to get the sale deed executed more particularly when the respondents at no point of time even remotely expressed any reservations in this regard. The petition being totally frivolous is dismissed with costs of Rs.1 lakh which shall be compensatory in nature. The learned trial court shall ensure that the costs are recovered from the petitioner and paid to the respondents.”

Indisputably, order passed by this Court has attained finality as Special Leave Petition (Civil) No. 1804 of 2015 filed by the petitioner came to be dismissed by Hon'ble the Supreme Court of India. As the order passed by the trial court on 11.3.2014 has been scrutinized by the higher courts and found to be in order, it is difficult to accept plea of the petitioner that the court of appeal has committed an error much less illegality in dismissing the application for condonation of delay in filing the appeal. The petitioner is guilty of misusing the process of law and hell bent to entangle the respondents in litigation.

For the foregoing reasons, the present petition is dismissed with compensatory costs of Rs. 5,000/-.

(Rekha Mittal)
Judge

8.8.2017
paramjit

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