

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

Civil Revision No.672 of 2017
Date of Decision: 07.07.2017

Ajit Singh

..Petitioner

versus

Municipal Corporation, Chandigarh through its Commissioner,
Chandigarh.

..Respondent

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. S.S.Toor, Advocate, for the petitioner.

RAMENDRA JAIN, J. (ORAL)

In the instant Civil Revision under Article 227 read with section 151, Civil Procedure Code, challenge has been laid to an order dated 14.9.2016 passed by the first appellate court, dismissing the application of the petitioner for condonation of delay of 1688 days in filing the appeal.

Learned counsel for the petitioner has contended that the learned appellate court failed to appreciate that the petitioner was ill-advised by his counsel to file a civil suit instead of a writ petition before this court and thereafter, the petitioner was kept in dark by him. The learned appellate court has also failed to appreciate that the petitioner had deposited the entire cost of construction and had intended to re-start the construction work of the booth.

I have given my thoughtful consideration to the submission made by learned counsel for the petitioner.

Briefly stated, Booth No.59 situated in Motor Market and Commercial Complex, Manimajra, was allotted to the petitioner in draw of lots, held on 28.2.1978. The possession of the site was offered to him on 15.7.1978. As per clause 8 (a) of the allotment letter and terms and conditions thereof, the petitioner was required to complete the construction over the site within one year from the date of its allotment, but he failed to do so. Consequently, the petitioner was served with the various show cause notices in between May, 1983 to September, 1996. He was also afforded an opportunity of being heard in person before the Assistant Commissioner on two dates. However, the petitioner failed to appear before the Assistant Commissioner, Municipal Corporation, Chandigarh and did not bother to reply any of the show cause notices. Resultantly, the order of resumption was passed on 29.11.1996 against the petitioner. Being aggrieved, the petitioner preferred an appeal before the learned appellate authority. The same was dismissed vide order dated 19.1.1998. The revision preferred by the petitioner before the Adviser to the Administrator, Union Territory, Chandigarh, met the same fate of dismissal vide order dated 6.2.2002. Thereafter, the petitioner challenged the aforesaid order dated 29.11.1996 passed by the Assistant Commissioner, Municipal Corporation, resuming and cancelling his booth no.59; order dated 19.1.1998 passed by the Commissioner, Municipal Corporation, dismissing his appeal, and order dated 6.2.2002 (Annexure P-4) rejecting his revision, by way of a civil suit. However, the petitioner could not satisfy the learned trial court qua his claim, therefore, his suit was also dismissed vide judgment and decree dated 12.2.2011 (Annexure P-3). Being dissatisfied, the petitioner preferred an appeal before the learned District Judge, Chandigarh, along with an

application for condonation of delay of 1688 days in filing the same. The learned lower appellate court, vide order dated 14.9.2016, dismissed the said application disagreeing/disbelieving the stand of the petitioner that he did not contact his counsel in between 22.2.2011 to 14.8.2015, i.e., for more than four years. The first appellate court also observed that it is obligatory upon a party to contact his counsel and to know about the proceedings in his case. That apart, the petitioner did not mention specific date of engaging the counsel and taking back the brief from him. The name of the counsel was also not disclosed and, therefore, the story put forth by the petitioner was a cooked up one. More so, from the record, it was apparent that the petitioner had obtained certified copy of the order of the trial court on 22.2.2011. Therefore, when the petitioner came to know on 14.8.2015 that the appeal has not been filed, he could file the same immediately without any delay, but the same was filed after more than one month, on 29.9.2015.

There is no denying the fact that the booth was allotted to the petitioner 39 years back in 1978 as now the year 2017 is running, the theory of ill advise by his counsel introduced by the petitioner from any angle, does not seem to be genuine, inasmuch as, the same is completely frivolous. The present revision is nothing but a sheer abuse of the process of law. The petitioner is taking undue advantage of intricacies of law since last 39 years. Hence, in the absence of production of any documentary proof by the petitioner in support of his assertion about alleged ill advise, there is no merit in the Civil Revision.

In view of the foregoing reasons stated above, the revision petition, being without any merit, fails and is hereby dismissed.

Registry is directed to bring this judgment to the notice of the respondent so as to avoid its concealment by the petitioner in future from any court/forum or authority.

07.07.2017
VK

(RAMENDRA JAIN)
JUDGE

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| 1. | Whether speaking/reasoned | Yes/No |
| 2. | Whether Reportable | Yes/No |