

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

CWP-20530-2017

Date of Decision: October 12, 2017

Bhavishan Kumar and another

.....Petitioners

Versus

State of Punjab and others

.....Respondents

**CORAM: HON'BLE MR.JUSTICE SURYA KANT
HON'BLE MR. JUSTICE SUDHIR MITTAL**

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|----|---|---------|
| 1. | To be referred to the Reporters or not? | Yes/No |
| 2. | Whether the judgment should be reported in the Digest? | Yes/No. |
| 3. | Whether Reporters of local papers may be allowed to see the judgment? | Yes/No |

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Present: Mr.Malkeet Singh, Advocate for the petitioners.

Ms.Ambika Luthra, Sr.DAG, Punjab.

Mr.Umesh Kumar, Advocate for

Mr.Sukhjinder Singh, Advocate for respondent No.3.

Mr.Kapil Khanna, Advocate for respondent No.4.

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SURYA KANT, J.

The petitioners are mainly aggrieved by the order dated 14.07.2017 passed by the Director, Rural Development and Panchayat Department, Punjab, whereby their appeal has been dismissed being barred by limitation. The Appellate Authority dismissed the application for condonation of delay of 172 days in filing the appeal.

[2] We have heard learned counsel for the parties. It is true that the petitioners were required to file appeal within 60 days from the date of receipt of a certified copy of the order. However, the categorical stand taken by the petitioners is that the Collector had reserved the order and they did

not come to know the date of pronouncement as a result of which the delay was caused. The petitioners came to know about the impugned order only when the *Kanungo* came to the village for execution of warrants of possession. Immediate thereafter the appeal was filed.

[3] There is substance in the explanation given by the petitioners. In such circumstances, the Appellate Authority should have decided the application on merits instead of dismissing the same on a hyper technical ground. Further more, the respondents can suitably be compensated with costs.

[4] For the reasons aforestated, the writ petition is allowed. The impugned order dated 14.07.2017 is set aside and by accepting the application for condonation of delay filed by the petitioners, the case is remitted to the Appellate Authority to decide the appeal on merits and in accordance with law. The parties are directed to appear before the Appellate Authority on 02.11.2017. The petitioners are directed to pay cost of Rs.2500/- to the Gram Panchayat and another Rs.2500/- to respondent No.4 on the very first day of appearance before the Appellate Authority.

(SURYA KANT)
JUDGE

October 12, 2017
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(SUDHIR MITTAL)
JUDGE

- 1. Whether speaking/reasoned ?**
- 2. Whether reportable ?**

Yes/No
Yes/No