

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

FAO No. 3216 of 2016 (O&M)
Date of Decision: 29.09.2017

Gurjant Singh

..... Appellant

Versus

Shiromani Gurdwara Parbandhak Committee,
Teja Singh Samundri Hall, Amritsar

..... Respondent

CORAM: HON'BLE MR. JUSTICE JASWANT SINGH

Present: Mr. P.S. Guliani, Advocate
for the appellant.

Mr. Sukhbir Singh Mattewal, Advocate
for the respondent.

JASWANT SINGH, J. (ORAL)

CM No. 11667-CII of 2016

Present application, moved by the appellant under Section 5 of Indian Limitation Act, is for condonation of delay of thirty-seven (37) days' in filing the appeal.

For the reasons stated in the application, duly supported by the affidavit of the applicant-appellant, the same is allowed and the delay of thirty-seven (37) days in filing the appeal is condoned.

MAIN CASE

Appellant-Gurjant Singh is in first appeal filed under Section 142, sub-Section 3 of the Sikh Gurdwara Act, 1925 (for short 'the Act'), assailing the order dated 18.01.2016 passed by learned Sikh Gurdwara Judicial Commission, Amritsar, whereby the appellant was removed from the Presidentship and Membership of Gurdwara Sahib Patshahi Nauvi,

Village Dhilwan, Tehsil Tapa, District Barnala, on the proved allegations of embezzlement of Gurdwara Fund for an amount of Rs. 31,300/- in the petition filed by the respondent (Shiromani Gurdwara Parbandhak Committee, Teja Singh Samundri Hall, Amritsar) under Section 142 of the Act.

The primarily grievance is that the appellant was not properly served and thereby illegally proceeded against *Ex Parte*.

Learned counsel for the respondent/SGPC points out that the appellant had filed an application under Order 9 Rule 13 CPC within Limitation Act for setting aside the *ex parte* judgment and decree dated 18.01.2016 before the Judicial Commission, which, however, was returned because of the coram being incomplete. He further states that now the vacancies have been filled-up and the Judicial Commission is fully functional, therefore, the appellant be relegated first to file and seek a decision on the application filed under Order 9 Rule 13 CPC.

In view of the stand of the counsel for respondent, learned counsel for the appellant, prays for permission to withdraw the present appeal, to enable his client to file a proper application before the Sikh Gurdwara Judicial Commission.

Dismissed as withdrawn with the aforesaid liberty.

It is further clarified that if the application under Order 9 Rule 13 CPC is filed within four weeks from today, no objections to limitation shall be entertained.

September 29, 2017

'dk kamra'

**(JASWANT SINGH)
JUDGE**

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No