

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

**LPA No.1874 of 2015 (O&M)**

**Date of Decision :14.02.2017**

Raghbir Singh

....Appellant

Versus

State of Haryana and others

....Respondents

CORAM : HON'BLE MR.JUSTICE MAHESH GROVER  
HON'BLE MR.JUSTICE DR.SHEKHER DHAWAN

Present: Mr. Vishal Gupta, Advocate  
for the appellant.

....

**MAHESH GROVER, J.** (Oral)

This appeal has been filed against the judgment dated 25.09.2012, and order dated 20.08.2015 passed in the review petition.

The appeal is accompanied by an application under Section 5 of the Limitation Act seeking condonation of delay of 1090 days in filing and 11 days in re-filing the appeal.

The appellant had approached this Court in writ proceedings questioning the order of the authorities under the Displaced Persons (Compensation and Rehabilitation) Act, 1954 negating allotment in his favour on a suo motu reference. The appellant had pleaded protection of Section 41 of the Transfer of Property Act to contend that he was a bona fide purchaser and the allotment/sale in his favour would be protected. Upon filing the

writ petition and seeking notice of motion the appellant sought refuge in some pending writ petitions to claim parity and similarity of the circumstances upon which the court granted him indulgence.

A bunch of writ petitions was disposed of including the petition preferred by the appellant and before the writ court a candid concession was made by the learned counsel representing him that his case is squarely covered by the ratio of a Full Bench decision rendered in **CWP No.5662 of 1986** (*Niranjan Kaur and others v. FCR, Punjab*). The writ petition was disposed of vide orders dated 25.09.2012. Whereafter the appellant sought a review of the same by pleading that he had other issues to press which have not been taken into account by the writ court. The review was also filed after a delay of 186 days. The learned Single Judge vide his order dated 20.08.2015 declined interference in these proceedings by noticing that the appellant had sought notice of motion by placing reliance on CWP No.5662 of 1986 and CWP No.7766 of 2004. All these writ petitions were decided on the strength of **CWP No.7766 of 2004** titled *Ram Saran and others v. The Commissioner and Secretary to Government Haryana, Rehabilitation Department, Chandigarh and others'* and CWP No.7766 of 2004 was in turn decided on the basis of *Niranjan Kaur's case* (supra).

Before us a similar plea has been raised as was raised before the review court.

After hearing the learned counsel for the appellant, we are of the opinion that no interference is warranted considering that the appellant himself conceded before the writ court that his matter was squarely covered by the ratio of the decision rendered in *Niranjana Kaur's case* (supra) and having done so it would not lie in his mouth to wriggle out of the situation by pleading that some of the issues raised in the writ petition went unanswered, more particularly when right from the inception of the writ proceedings reliance was placed on certain other writ petitions which were also disposed of in the same terms.

It was open to the appellant to raise this plea before the learned Single Judge when his matter was taken up but no such plea was taken. That apart the writ court had granted liberty to the appellant in the following terms :-

“...Thus, so far the prayer to recall the order passed by the Commissioner was considered and declined. Since the petitioners have not filed any application for being impleaded as a party either before the Secretary or Chief Settlement Commissioner, the prayer made in the petition or raised during the course of arguments for impleading the petitioners as party would not

require consideration being beyond the scope of prayer made before the authorities. The plea which was never raised before the authorities concerned, can not be considered in the writ petition. Since the case is pending before the Chief Settlement Commissioner, it would be open for the petitioners to file an application for being impleaded as party respondents. In case of any adverse order, the petitioners would be at liberty to take any appropriate proceedings against such order.”

We thus do not find any ground to interfere, more particularly when the appeal is accompanied by an application under Section 5 of the Limitation Act for condoning inordinate delay of 1090 days which we do not intend to condone in the given set of circumstances.

Dismissed.

(MAHESH GROVER)  
JUDGE

14.02.2017  
dss

(SHEKHER DHAWAN)  
JUDGE

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|---------------------------|--------|
| Whether speaking/reasoned | Yes/No |
| Whether reportable        | Yes/No |