

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

CR No.5103 of 2018 (O&M)
Date of Decision : 09.08.2018

Greater Ludhiana Area Development Authority.

...Petitioner

versus

Gurdeep Singh and others

...Respondent

CORAM : HON'BLE MR. JUSTICE B.S.WALIA

Present: Mr. Rakesh Gupta, Advocate for the petitioner.

B.S.WALIA, J.

CM No.16606-CII of 2018

For the reasons as are mentioned in the application, the same is allowed, subject to all just exceptions.

CR No.5103 of 2018

1. Learned counsel contends that order Annexure P-1, dated 02.05.2018 striking off defence of the petitioners on account of non-filing of reply as well as payment of costs was on account of counsel representing the petitioners before the learned Additional District Judge, Ludhiana neither informing of requirement to file reply as also to pay costs, therefore, the petitioners are entitled to seek modification/recall of order as well as enlargement of time u/s 151 read with Section 148, Code of Civil Procedure in view of the decision of Hon'ble the Supreme Court in **Saleem Advocate Bar Association Tamilnadu vs. Union of India AIR 2005 Supreme Court 3353** as well as decision of this Court in **Municipal Committee Kharkhoda vs. Bhim Singh 1987 (1) RCR (Rent) 442.**

Learned counsel further states that the petitioner has also taken appropriate action against the counsel.

2. Whatever circumstances led to non filing of reply and failure to pay costs on the date fixed, were not brought to the notice of the learned Additional District Judge, Ludhiana by moving an appropriate application and satisfying the Court that there was a sufficient cause for not filing the reply as well as for paying costs. Instead, the petitioners have straightway invoked the jurisdiction of this Court without moving an application before the learned Additional District Judge, Ludhiana for recall of the impugned order and for extension of time for doing the needful by satisfying the learned Additional District Judge that they were prevented by sufficient cause from doing the needful on the date of the passing of the impugned order.

3. Learned counsel states that he does not press the instant revision petition and would withdraw the same with liberty to file an appropriate application before the learned Additional District Judge, Ludhiana. Learned counsel however states that the matter is listed before the learned Additional District Judge, Ludhiana on 10.08.2018, therefore some time be granted to the petitioner to move an application with a further prayer that till such time decision is taken on the application, protection be granted to the petitioner.

4. I have considered the submissions of learned counsel and for the view that I am taking, I do not deem it appropriate to issue notice to the respondents as the same would unnecessarily delay not only the final disposal of the instant petition but also the reference petition u/s 18 of the

Land Acquisition Act, 1894 as is pending before the learned Additional District Judge, Ludhiana.

5. Taking into account all aspects of the matter including the decision of Hon'ble the Supreme Court in Saleem Advocate Bar Association Tamilnadu's case (Supra) as well as decision of this Court in MC Kharkhoda's case (Supra), the revision petition is disposed of by relegating the petitioner to avail remedy of moving an appropriate application before the learned Additional District Judge, Ludhiana, within a period of 10 days from today. In case any such application is moved, within the time as stipulated above, the learned Additional District Judge, Ludhiana will consider and decide the same in accordance with law, as expeditiously as possible, preferably within a period of two weeks thereafter and till such time decision is taken on the application, further proceedings before the learned Additional District Judge, Ludhiana listed for 10.08.2018, shall remain in abeyance.

6. Revision petition disposed of in above terms.

(B.S.WALIA)
JUDGE

09.08.2018

rajesh.k.khurana

Whether speaking/reasoned

: Yes/No

Whether reportable

: Yes/No