

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

LPA NO. 2452 OF 2017 (O&M) IN
CWP NO. 14898 OF 1992

Date of Decision : 05.02.2018

Guran Devi

...Appellant

Versus

The State of Haryana and another

...Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BINDAL
HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

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

RAJESH BINDAL, J.

The order passed by the learned Single Judge, dismissing the writ petition filed by the appellant, has been impugned in the present intra-court appeal.

The appeal is accompanied by the applications seeking condonation of delay of 08 days in filing as well as 88 days in re-filing thereof.

The order impugned in the writ petition dated 19.05.1992 passed by the Commissioner & Secretary to Government of Haryana, Local Government Department, vide which the petition filed by the Municipal Committee, Thanesar, under Section 253 of the Haryana Municipal Act, 1973, was accepted and the order passed by the Sub-Divisional Officer (Civil), in favour of the applicant-appellant, was set-aside.

The applicant/appellant in the present case was seeking sanction of building plans for Plots No.56-57 situated in Jyoti Nagar (Dara Kalan), Thanesar. The building plans were not sanctioned as it was found that in terms of the Town Planning Scheme No.5 as notified on October 30, 1975, part of the building was falling within the area ear-marked for a park.

The contention sought to be raised by learned counsel for the applicant/appellant before the learned Single Judge was that nothing had come on record to show as to whether Town Planning Scheme No.5 stood implemented and in the absence thereof, sanction of building plan could not be refused.

The fact remains that besides challenging order dated 19.05.1992 passed by the Commissioner & Secretary to Government of Haryana, Local Government Department, by filing the writ petition, the applicant/appellant had filed a civil suit for injunction which was dismissed by the trial Court on 24.09.1993. Even appeal filed by the applicant/appellant before the learned Additional District Judge, Kurukshetra, was also dismissed on 08.04.1994. The aforesaid judgment of learned Additional District Judge, Kurukshetra notices the factum of writ petition filed by the applicant/appellant. Reference has been made to the order passed by this Court in CWP No. 9019 of 1993 titled as “Virender Gaur and others v. State of Haryana and others”, in which it has been opined that the Town Planning Scheme No.5 as notified on October 30, 1975, stood implemented and the area had been developed in terms thereof. It is not in dispute that the applicant/appellant accepted the aforesaid judgment of the learned Additional District Judge, Kurukshetra and never filed any appeal against

the same.

Once a finding has been recorded in the case of applicant/appellant herself by the learned Additional District Judge, Kurukshetra in a civil suit filed by her, we do not find any error in the order passed by the learned Single Judge. In fact the applicant/appellant tried to be smart by availing two parallel remedies for the same relief. An order adverse to the applicant/appellant in any of the proceedings while deciding the issue cannot be permitted to be re-opened in other proceedings. There is no merit in the appeal. Accordingly, the same is dismissed. Consequently, the applications for condonation of delay in filing/re-filing the appeal are also dismissed.

**(RAJESH BINDAL)
JUDGE**

**(ANUPINDER SINGH GREWAL)
JUDGE**

FEBRUARY 05, 2018
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Whether speaking/reasoned : YES/NO

Whether reportable : YES/NO