

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

Letters Patent Appeal No. 1708 of 2018 (O&M)

Date of Decision: 30.10.2018

State Bank of India and others

.....Appellants

versus

Bhupinder Singh and others

.....Respondents

**CORAM: HON'BLE MR.JUSTICE KRISHNA MURARI, CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI, JUDGE**

Present : Mr. Vikas Chatrath, Advocate, for the appellants.

KRISHNA MURARI, C.J.(oral)

CM Nos. 4459 and 4460-LPA of 2018

Heard. For the reasons mentioned in the applications, delay of 81 days in filing and 10 days in re-filing the appeal is condoned. Both the applications stand disposed of.

LPA No. 1708 of 2018

This intra-court appeal under clause X of the Letters Patent is directed against the judgment and order dated 10.05.2018 disposing of the writ petition filed by the respondents herein by directing that the amount recovered by the appellant's bank on account of payment towards the Leave Travel Concession wrongly paid due to misinterpretation of circular letter dated 31.10.2015 is to be refunded if not already refunded and also to pay interest @ 9% per annum from the date of recovery till actual repayment of the amount.

2. Challenge has also been made in this appeal to the order dated 03.08.2018 passed by the learned Single Judge dismissing the application made by the appellants herein under Order 47 of the Code of Civil Procedure for review of the judgment. The review application has been dismissed by the learned Single Judge by passing the following order:-

“Prayer in this application moved under Article 226/227 read with Section 144 and Order 47 of the CPC is for reviewing judgment dated 06.10.2017.

Heard.

Since, remedy by way of letters patents appeal is available, review application is not maintainable.

Accordingly, application is dismissed.”

3. Learned counsel for the appellants submits that rejection of the review application on the ground that the remedy by way of Letters Patent Appeal is available cannot be sustained inasmuch as the review is to be considered and decided on its own parameters as laid down in the provisions of the Code of Civil Procedure and merely because a remedy by way of an appeal to the higher forum is available cannot in itself constitute a ground to dismiss the review application. From a perusal of the impugned order quoted hereinabove, we find that the learned Single Judge has failed to consider the review application on-merits but instead dismissed it only on the ground that the remedy by way of appeal is available.

4. In our considered view also, the existence of a remedy before the higher forum cannot in itself constitute a ground to dismiss the review application. The view taken by the learned Single Judge while dismissing the review application is patently erroneous and not liable to be sustained.

Accordingly, we hereby set aside the order dated 03.08.2018 and the appeal stands disposed of to the above extent. The matter stands remitted back to the learned Single Judge to consider the review application afresh on its on-merits in accordance with law.

(KRISHNA MURARI)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

30.10.2018

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Whether speaking/reasoned	√Yes/No
Whether reportable	Yes/No√