

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Letters Patent Appeal No. 268 of 2018 (O&M) in
CWP No. 8804 of 2017
Date of decision: 19.2.2018

Sh. Kalicharan Keshan

.. Appellant

v.

Seth Kirorimal Charity Trust and others

.. Respondents

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

Present: Mr. Kshitij Sharma, Advocate for the appellant.

...

Rajesh Bindal J.

CM No. 684 of 2018

For the reasons stated in the application, delay of 65 days in
filing the appeal is condoned.

CM stands disposed of.

LPA No. 268 of 2018

The only grievance raised by the appellant, who is claiming
himself to be of 92 years of age, in the present appeal is that the reply filed
by him has been directed to be de-tagged from the paper book and his
defence has been struck off.

The submission is that vide order dated 23.8.2017, the
appellant was granted time to file reply and on his failure, his defence was
to be struck off. The next date was fixed for 10.11.2017. On that day, CM
No.16188-CWP of 2017 was filed to place on record the reply on behalf of
the appellant and adjournment slip was filed as counsel for the appellant
(respondent No. 5 in the writ petition) was down with viral, however,

rejecting the prayer his defence has been struck off. The writ petition is

stated to be pending on 21.2.2018.

Mr. Brijender Kaushik, Advocate had appeared for the writ petitioners. Learned counsel for the appellant was asked to request Mr. Brijender Kaushik, Advocate to come present in court. He submitted that on a request made by him, he responded through SMS stating that he is not in town today and further has no instructions to appear in the matter.

Considering the fact that the writ petition is still pending; defence of the appellant was struck off by the learned Single Judge finding delay in filing the written statement and as the reason assigned by learned counsel for the appellant is that he was down with viral, hence, could not appear in court on the date fixed for arguments and only an application seeking to place on record the reply was filed, in our opinion, order passed by the learned Single Judge deserves to be modified to the extent that CM No. 16188-CWP of 2017 is allowed, which in record is still pending. The written statement filed by the appellant (respondent No. 5 in the writ petition) be taken on record and the matter be dealt with further.

In case, the writ petitioners have any grievance with the order passed by in the present appeal, they have the liberty to file application for re-calling thereof.

The appeal stands disposed of accordingly.

(Rajesh Bindal)
Judge

(B. S. Walia)
Judge

19.2.2018

mk

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No

