

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

C.R. No.3750 of 2019

Date of Decision.31.05.2019

Sunil

...Petitioner

Vs

State of Haryana and others

..Respondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. B.S. Rathee, Advocate
for the petitioner.

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AMIT RAWAL J. (ORAL)

The revision petition is directed against the impugned order whereby application for making deficiency of court fee and condonation of delay has been dismissed.

The decree in the aforementioned case was passed on 26.09.2018 granting a period of three months for making good the deficiency of court fee, which expired on 26.12.2018. However, the application was filed on 16.02.2019 with court fee but the trial Court dismissed the application being not maintainable without exercising discretion as per the provisions of Section 148 of the Code of Civil Procedure.

I have heard learned counsel for the petitioner and appraised the paper book. The provisions of Section 148 CPC empowers the Court to extend the time than the one given in the decree but not more than 30 days. However, the aforementioned expression of 'beyond 30 days' has been interpreted by Hon'ble Supreme Court in **D.V. Paul vs. Manisha Lalwani (2010) 8 SCC 546** that it would not have denuded inherent power of the Court to pass any order as may be necessary to meet ends of justice or to prevent

abuse of the Court. The order of the trial court reads as under:-

“An application for payment of court fee filed. Copy of judgment dated 26.9.2018 passed by Ld. Predecessor court is placed on record, according to which applicant was directed 3 months time to make good deficiency in the court fees. Three months have already been expired on 26.12.2018. No reason has been mentioned in the application for filing the same after 3 months. No application for condonation of delay is also moved. In these application is not maintainable, it is dismissed.

*Sd/-
(Sachin Yadav)
ACJ (SD)/Gohana”*

In such circumstances, the trial court ought not to have dismissed the application being not maintainable. It is also a matter of record that the application was accompanied by appropriate court fee. It is a case of land in illegal occupation of the State i.e. PWD Department of Haryana Government. Such harsh approach could not have been adopted by the trial Court.

In my view, the impugned order suffers from illegality and infirmity and the same is hereby set aside. The application for payment of court fee is allowed and the petitioner is permitted to make good the deficiency of court fee. The revision petition stands allowed.

**(AMIT RAWAL)
JUDGE**

May 31, 2019
Pankaj*

Whether speaking/reasoned Yes

Whether reportable No