

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

**LPA No.1317 of 2018 (O&M)
Date of Decision :12.03.2020**

**The Saraswati Kunj Cooperative House Building Society Limited,
Wazirabad, Gurgaon**

.....Appellant

Versus

Anand S. Gupta and others

..... Respondents

**CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN
HON'BLE MR.JUSTICE ARUN PALLI**

Present : Mr. A.K.Chopra, Sr. Advocate with
Mr. Askhit Chaudhary, Advocate and
Mr. R.D.Gupta, Advocate for the appellant.

Mr. Akshay Bhan Sr. Advocate with
Mr. Sumeet Jain, Advocate for respondent No.1.

RAKESH KUMAR JAIN, J. (Oral):

This appeal is directed against the order dated 12.01.2017 by which the writ petition filed by private respondent No.1 was allowed and the order dated 12.03.2018 by which review application filed by the present appellant was dismissed.

At the time of issuance of notice of motion on 13.02.2019, this Court had passed the following order:-

“It is contended that the learned Single Judge allowed the writ petition ex-parte without even putting the appellant to notice and the review has wrongly and illegally been dismissed on the ground that the appellant seeks to re-submit the argument and re-agitate the controversy, even though the appellant for want of notice never even appeared before the learned Single Judge.

Prima-facie, there appears to be force in the

submission and the issue requires scrutiny.

Issue notice on delay condonation application as well as appeal.

Mr. Sumit Jain, learned counsel, who is present in Court on the strength of caveat, accepts notice on behalf of the contesting respondent No. 1. He prays for a short adjournment to argue the matter.

To be listed on 27.03.2019 alongwith LPA-1018-2018.

Till the next date of listing, effect and operation of the impugned order passed by the learned Single Judge, shall remain in abeyance.”

Learned Senior counsel appearing on behalf of respondent No.1 has not disputed the factual position that the learned Single Judge has not put the present appellant to notice in the writ petition and has also wrongly dismissed the review application on the ground that the appellant is trying to re-argue the matter and re-agitate the controversy though he was not issued notice by the learned Single Judge.

Learned counsel for both the parties are thus *ad idem* that the impugned orders dated 12.01.2017 and 12.03.2018 be set aside and this case be remanded back to the learned Single Judge to decide the same as early as possible within the time prescribed by this court. Accordingly, the present appeal is hereby allowed and the orders dated 12.01.2017, passed in the writ petition and the order dated 12.03.2018 passed in the review application are hereby set aside. The writ petition is remanded back to the learned Single Judge as per roster. The learned Single Judge is requested to expedite the hearing of the writ petition and decide the same as early as possible but

preferably within a period of 3 months from the date of appearance of the parties themselves or through their counsel.

While parting with this order we make it clear that the learned Single Judge shall not be influenced by the orders assailed in this appeal or the order passed by this Court on 13.02.2019, while issuing notice of motion.

The parties are directed to appear before the learned Single Judge on 23.03.2020.

(RAKESH KUMAR JAIN)
JUDGE

(ARUN PALLI)
JUDGE

12.03.2020
Manoj Bhutani

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