

**CM-15694-CWP-2021 in/and
RA-CW-261-2021 in
CWP-25643-2019**

M/s Subhash Chander & Sons Vs. State of Haryana & others

Present:- Mr. Shailendra Sharma, Advocate for the applicant/petitioner.

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This case has been taken up through Video Conferencing via Webex facility in the light of Pandemic Covid-19 situation and as per instructions.

CM-15694-CWP-2021:

Instant application has been filed under Section 5 of the Limitation Act seeking condonation of delay of 616 days in re-filing the accompanying review application.

The application is supported by an affidavit of the counsel himself.

In view of the averments made in the application, we find that sufficient cause has been shown so as to justify the delay that has occurred in re-filing the review application.

Prayer is allowed.

Delay is condoned.

Application is disposed of.

RA-CW-261-2021:

Instant application has been filed under Order 47 Rule 1 CPC read with Section 151 CPC seeking review of the order dated 26.09.2019 passed by this Court while dismissing CWP-25643-2019.

Suffice it to note that the writ petition had been filed assailing the order dated 20.06.2014 passed by a duly constituted Allotment Committee holding the petitioner/firm to be not eligible for allotment of a plot in the new Vegetable Market, Ambala City (Annexure P-6). Further challenge was to the orders passed by the Appellate as also the Revisional Authorities upholding the view taken by the Allotment Committee.

Learned counsel has argued that it is only after the dismissal of the writ petition that the petitioner/firm became aware of a rent agreement pertaining to a period of 11 months commencing from 27.03.2014 between the petitioner/firm through proprietor Subhash Chand and M/s Oberoi Fruit Agency through proprietor Jaspal Singh as regards carrying out business of wholesale fruit at the old Vegetable Market, Ambala City. Precise contention is that on the basis of such rent agreement, the petitioner/firm would be vested with a right for preferential allotment in the new Vegetable Market, Ambala City in view of the provisions under the Haryana Agricultural Produce Markets Act, 1961 and the Rules framed thereunder.

We have heard counsel at length and have perused the pleadings on record.

Even though, there are no averments made in the review application as regards exercise of due diligence pertaining to the purported rent agreement dated 27.03.2014 at Annexure RP-I as envisaged under Order 47 Rule 1 CPC, yet during the course of arguments, counsel has asserted that such document ought to be taken note of by the Bench so as to examine the claim of the petitioner/firm for allotment of site in the new

Vegetable Market, Ambala City.

Rule 3 (1)(vi) of the Haryana State Agricultural Marketing Board (Sale of Immovable Property) Rules, 2000 (hereinafter to be referred to as 'the 2000 Rules') reads as follows:

“Rule 3 (1)(vi):

the category (ii) licensee must have an independent premises, either own or rented, in the old mandi to be denotified. In case there are more than one licensee in the same premises, the oldest firm or the one which is agreed upon in writing by all the firms occupying the same premises, shall be eligible.”

The rent agreement at best reflects that the petitioner/firm was also carrying the business at the old Vegetable Market, Ambala City from Shop No.22. The other firm which was carrying out business from the same very premises was one M/s Oberoi Fruit Agency through proprietor Jaspal Singh.

On a specific query having been put, counsel would concede that the other firm, namely, M/s Oberoi Fruit Agency had been carrying out its operations from a prior point of time and as such was senior.

In the light of such categorical admission, even if the agreement relied upon by the counsel dated 27.03.2014 at Annexure RP-I is taken at its face value, the petitioner/firm would not be vested with any right for preferential allotment keeping in view the mandate of Rule 3(1) (vi) of the 2000 Rules.

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Instant review application is wholly mis-conceived.

Dismissed.

**(TEJINDER SINGH DHINDSA)
JUDGE**

**(SUDHIR MITTAL)
JUDGE**

31.01.2022
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