

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

LPA No. 1064 of 2022 (O & M)

Date of Decision: 30.11.2022

Amanjot Kaur

.....Appellant(s)

Versus

State of Punjab and others

....Respondent(s)

**CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA
HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN**

Present: Mr. H.S. Maan, Advocate,
and Mr. J.S. Dhaliwal, Advocate,
for the applicant-appellant.

G.S.SANDHAWALIA, J. (Oral)

CM-2583-LPA-2022

Application for condonation of delay of 9 days in filing the appeal is allowed in view of averments made in the application supported by affidavit of the appellant and in view of the nominal delay.

Delay of 9 days in filing the appeal is condoned.

C.M. stands disposed of.

LPA-1064-2022

The present letters patent appeal arises out of the interim orders dated 14.10.2022 and 15.11.2022 passed by the learned Single Judge whereby, CWP No. 23227 of 2022 was adjourned *sine die* for impleadment of necessary parties.

Apparently, an application bearing CM-16588-CWP-2022 was filed for reviving the main case on the ground that impleadment of necessary parties was not required in view of the judgment of the Apex Court in ***Rajesh Kumar Gupta and others vs. State of U.P. and others, (2005) 5 SCC 172.***

The said application is stated to have come up on 20.10.2022, on which day,

members of the Bar were stated to be abstaining from work and resultantly, it was adjourned to 13.01.2023. Thereafter, another application for pre-poning of the date of hearing of CM-16588-CWP-2022 was filed i.e. CM-17913-CWP-2022, which came up on 15.11.2022. The learned Single Judge directed the office to list CM-16588-CWP-2022 which was for review of the order on the same date i.e. 13.01.2023.

Resultantly, we are of the considered opinion that the present appeal itself is not maintainable keeping in view the law laid down by the Apex Court in ***Midnapore Peoples' Coop. Bank and others vs. Chunilal Nanda and others, (2006) 5 SCC 399*** wherein, it was held as under:-

“15. Interim orders/interlocutory orders passed during the pendency of a case, fall under one or the other of the following categories :

(i) Orders which finally decide a question or issue in controversy in the main case.

(ii) Orders which finally decide an issue which materially and directly affects the final decision in the main case.

(iii) Orders which finally decide a collateral issue or question which is not the subject matter of the main case.

(iv) Routine orders which are passed to facilitate the progress of the case till its culmination in the final judgment.

(v) Orders which may cause some inconvenience or some prejudice to a party, but which do not finally determine the rights and obligations of the parties.

The term 'judgment' occurring in clause 15 of the Letters Patent will take into its fold not only the judgments as

defined in section 2(9) CPC and orders enumerated in Order 43 Rule 1 of CPC, but also other orders which, though may not finally and conclusively determine the rights of parties with regard to all or any matters in controversy, may have finality in regard to some collateral matter, which will affect the vital and valuable rights and obligations of the parties. Interlocutory orders which fall under categories (i) to (iii) above, are, therefore, 'judgments' for the purpose of filing appeals under the Letters Patent. On the other hand, orders falling under categories (iv) and (v) are not 'judgments' for purpose of filing appeals provided under the Letters Patent."

Thus, the orders as such is not a judgment which will finally determine the rights and obligations of the parties. The inconvenience of prejudice which has been caused to the appellant herein is on account of the members of the Bar being on strike and, therefore, we are of the considered opinion that it cannot be a ground to pre-pone on account of the fact that the strike carried on for over a week. It has been held by the Apex Court in ***Ex-Capt. Harish Uppal vs. Union of India, (2003) 2 SCC 45*** that apart from a token strike of one day, the Members of the Bar Association are not authorised or entitled to extend the strike. In such circumstances, if the absence was on their own account, it is not for this Court to interfere or rectify in remedy the inconvenience which has been caused on account of the members of the Bar itself and would fall under category (v), for which no appeal would be maintainable.

Resultantly, we do not wish to interfere in the interim orders

dated 14.10.2022 and 15.11.2022 which have been passed and the present

letters patent appeal accordingly stands dismissed.

(G.S. SANDHAWALIA)
JUDGE

30.11.2022
shivani

(HARPREET KAUR JEEWAN)
JUDGE

Whether reasoned/speaking
Whether reportable

Yes/No
Yes/No