

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

(213)

LPA-752-2002 (O&M)

Union of India

....Appellant(s)

Versus

Jagdev Singh and others

.... Respondent(s)

(2)

LPA-753-2002 (O&M)

Union of India

....Appellant(s)

Versus

Balwant Singh and others

.... Respondent(s)

(3)

LPA-754-2002 (O&M)

Union of India

....Appellant(s)

Versus

Savitri Devi and others

.... Respondent(s)

Decided on: 21.02.2023

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

Present: Mr. P.C. Goyal, Advocate for the appellant-UI.

Mr. Rajesh Gupta, Advocate
for respondent Nos.5, 6, 8, 12 & 13 (in LPA-752-2002) and
for respondent No.8 (in LPA-754-2002).

G.S. Sandhawalia, J. (Oral)

The present judgment shall dispose of three appeals i.e.
LPA Nos.752 to 754 of 2002, since common question of law and facts are
involved. Facts are being taken from **LPA No.752 of 2002 ‘Union of
India Vs. Jagdev Singh and others’**.

2. The present appeal is directed against the order of the learned Single Judge dated 05.10.2001, whereby the Regular First Appeal of the Union of India was dismissed on the ground of being barred by limitation, as there was a delay of 960 days in re-filing the appeal and there was also a delay of 97 days in filing the appeal. A period of 40 days is provided for removal of discrepancies under the High Court Rules and Orders and learned Single Judge came to the conclusion that the impersonal approach was adopted by the public servants in pursuing the affairs of the State and no plausible reason was forth coming to explain why the appeals could not have been presented in time. It was, accordingly, held that it was an unexplainable default which borders negligence and there was a callousness on behalf of the appellants and their representatives, since the appeal was returned by the Office on 08.12.1998, but was not filed till 19.09.2001. Reliance was placed upon the judgment of the Apex Court passed in **P.K. Ram Chandran Vs. State of Kerala and another, (1997) 7 SCC 556** to hold that the law of limitation may harshly affect a particular party but the Court has no power to extent the period of limitation on equitable grounds. Resultantly, the application was dismissed and it was directed that the Regular First Appeal also stands dismissed.

3. Thereafter, the present appeals have been filed taking shelter of Clause 10 under the Letters Patent Act, which are further barred by delay of 8 days in filing the appeals and 46 days in re-filing the appeals. For the reasons given in the application for condonation of delay, sufficient case has been made out to condone the delay, as it is settled principle of law that on account of procedural formalities involved nominal delay has occurred.

4. However, regarding the maintainability of the appeals, we are of the considered opinion that in view of Section 54 of the Land Acquisition Act, 1894 (for short '1894 Act'), the present appeals are not maintainable. Section 54 reads as under:-

“54. Appeals in proceedings before Court.-Subject to the provisions of the Code of Civil Procedure, 1908, applicable to appeals from original decrees, and notwithstanding anything to the contrary in any enactment for the time being in force, an appeal shall only lie in any proceedings under this Act to the High Court from the award, or from any part of the award, of the Court and from any decree of the High Court passed on such appeal as aforesaid an appeal shall lie to the Supreme Court subject to the provisions contained in section 110 of the Code of Civil Procedure, 1908, and in Order XLV thereof.”

5. A perusal of Section 54 of the 1894 Act would go on to show that an appeal lies to this Court against an Award and from the decree of this Court an appeal lies to the Supreme Court. As noticed the application for condonation of delay was dismissed and the learned Single Judge also dismissed the Regular First Appeal. In such circumstances, the remedy did not lie before this Court at the first instance.

6. Section 100A of the Code of Civil Procedure, 1908 (for short 'CPC') further provides that notwithstanding anything contained in any Letters Patent for any High Court or in any instrument having the force of law where any appeal from an original or appellate decree or order is heard and decided by learned Single Judge, no further appeal shall lie from the judgment and decree of such Single Judge. Section 100A reads as under:-

“100A. No further appeal in certain cases.—
Notwithstanding anything contained in any Letters Patent

for any High Court or in any instrument having the force of law or in any other law for the time being in force, where any appeal from an original or appellate decree or order is heard and decided by a Single Judge of a High Court, no further appeal shall lie from the judgment and decree of such Single Judge.”

7. The said amendment was incorporated on 01.07.2002. A Five Judge Bench of this Court examined the said aspect in **LPA No.225 of 2003 ‘Balbir Kaur Vs. Bhim Singh’** and held that a Letter Patent Appeal is not maintainable against the order of the learned Single Judge, which was pertaining to grant of decree of divorce under Section 13 of the Hindu Marriage Act, 1955.

8. The said issue also came up before the Full Bench in **Parshotam Dass Vs. State of Haryana, AIR 2003 (P&H) 301** and the said issue was that whether a letters patent appeal would lie against the judgment and decree passed by the learned Single Judge in an appeal arising from an original or appellate decree or order, which was also a case pertaining to the Land Acquisition Act. Resultantly, a finding was recorded that after 01.07.2002 no appeal would lie against the judgment and decree passed by the learned Single Judge arising from an original, appellate decree or order. Question was answered accordingly. The second question was that whether the Letters Patent Appeals filed before 01.07.2002 were liable to be dealt with and decided in accordance with amended Section 100A of the CPC. Resultantly, it was held that appeals which have been filed before 01.07.2002 would not affect the accrued right of appeal vested in a suitor, who had actually filed the appeal before the said date, but those who had yet to file the appeal on or after 01.07.2002 would not be entitled to maintain the same.

9. In the present case, it is to be noticed that though the appeals were originally filed on 05.04.2002, but various objections were raised by the office. The appeals were then returned on 20.04.2002 with certain objections by the office. However, the case was within limitation, since it was barred by 8 days and the same was re-filed and again objections were put on 04.05.2002. The said appeals were then again re-filed on 30.05.2002 and on objections being raised were re-filed on 09.07.2002 and there was a delay of 40 days. The appeals were then finally filed on 17.07.2002. It is, thus, apparent that the appeals were never complete in all prospects and filed after 01.07.2002 and listed for the first time before the Bench on 22.07.2002.

10. Thus, keeping in view the above it would also fall foul of the above observations, as the appeals were not filed before 01.07.2002 complete in all respects and, therefore, by the time the amendment had come into force and re-filed on 17.07.2002 and would make them not maintainable.

11. Resultantly, we are of the considered opinion that the present Letters Patent Appeals are not maintainable and are, accordingly, dismissed.

(G.S. SANDHAWALIA)
JUDGE

(HARPREET KAUR JEEWAN)
JUDGE

21.02.2023
Naveen

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No