

CWP-18812-2016

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2023:PHHC:042955

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CWP-18812-2016

Date of decision : 23.03.2023

Harbhajan Singh and others

... Petitioners

Versus

Sub Divisional Magistrate-cum-Collector Zira and others

... Respondents

CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

Present: Mr.P.S. Rana, Advocate
for the petitioners.

Mr.Rohit Ahuja, DAG, Punjab.

Mr.Sandeep Punchhi, Advocate
for respondent no.4.

VIKAS BAHL, J.(ORAL)

This is a civil writ petition filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari for quashing the impugned order dated 31.05.2016 (Annexure P-11) passed by respondent no.1 dismissing the application dated 07.03.2008 filed under Order 7 Rule 11 read with Section 151 CPC.

Learned counsel for respondent no.4 has submitted that in the present case, the impugned order has been passed by the Collector and the appeal therefore, would lie before the Commissioner inasmuch as on an earlier occasion, when the application under Order 7 Rule 11 read with Section 151 CPC of the petitioner was decided by the Collector and the appeal therefrom was filed before the Commissioner and the said order was upheld by a coordinate Bench of this Court.

Learned counsel for the petitioners has submitted that in view of the same, the petitioners be permitted to withdraw the present petition with liberty to file an appeal before the Commissioner and the Commissioner be directed to decide the appeal as expeditiously as possible in any case within a period of three months from the date of filing of the appeal. Learned counsel for the petitioners has further submitted that since the petitioners were pursuing the present remedy, he would be permitted to file appeal within a period of one month from today and on doing so, the Commissioner be directed not to dismiss the same on the aspect of limitation.

Learned counsel for the respondents have submitted that in case the appeal is filed within a period of one month, then the plea of limitation would not be raised by them.

Keeping in view of the above, the present petition is dismissed as withdrawn with the liberty to file an appeal before the Commissioner. In case the petitioners file an appeal before the Commissioner within a period of one month, the Commissioner would not dismiss the same on the aspect of limitation and the Commissioner is directed to decide the said appeal within a period of three months from the date the said appeal is filed.

All the counsels appearing before the Commissioner are directed to fully assist the case in expeditious disposal of the case.

(VIKAS BAHL)
JUDGE

March 23, 2023
Davinder Kumar

Whether speaking / reasoned
Whether reportable

Yes/No
Yes/No