

CM-18352-CWP-2023 and
CM-18354-CWP-2023 in/and
CWP-6976-2018 (O&M)

[11]

2023:PHHC:139407

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

CM-18352-CWP-2023 and
CM-18354-CWP-2023 in/and
CWP-6976-2018 (O&M)
Date of decision: 02.11.2023

Alina

...Petitioner

Versus

Chandigarh Administration and others

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Rohit Kaushik, Legal Aid Counsel
Advocate for the petitioner.

Mr. Anil Mehta, Advocate and
Ms. Madhu Dayal, Advocate and
Mr. Mayank Sharma, Advocate for UT Chandigarh.

VIKAS BAHL, J. (ORAL)

CM-18352-CWP-2023

1. This is an application filed under Section 5 of the Limitation Act for condonation of delay of 74 days in filing the application for restoration.

2. For the reasons stated in the application which is duly supported by an affidavit, delay of 74 days in filing the application for restoration is condoned.

3. Application is allowed.

CM-18354-CWP-2023

1. This is an application filed under Order 9 Rule 9 read with Section 151 CPC for restoration of the case and recalling of order dated 05.07.2023.

2. For the reasons stated in the application which is duly supported by an affidavit, the present application is allowed and order dated 05.07.2023 is recalled and the main case is restored to its original number.

Main case

1. This is a Civil Writ Petition filed under Article 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari for quashing of impugned order dated 08.02.2018 (Annexure P-4).

2. Learned counsel appearing on behalf of UT Chandigarh has submitted that as per Notification dated 29.11.2017, against the impugned order, an appeal lies before the District Magistrate. The relevant portion of the said notification is reproduced hereinbelow:-

“No. SWI/Sr.Citizens Act/2017/7890 Dated: 29/11/17

In partial modification of the Chandigarh Administration Notification No. SWI/Sr. Citizens Act/Tribunals/2008/9752 dated 22.12.2008. the following is hereby added at the end of said notification:

The Administrator, UT. Chandigarh is further pleased to declare the Additional District Magistrate/Additional Deputy Commissioner, Union Territory Chandigarh as the Maintenance Tribunal who shall hear the cases under Sections 21, 22 & 23 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 and the District Magistrate as an Appellate Tribunal, who shall hear the appeals against the order passed under the aforesaid sections of the Act ibid.

*DATED: 28:11.2017 SECRETARY SOCIAL WELFARE
WOMEN & CHILD DEVELOPMENT
CHANDIGARH ADMINISTRATION”*

3. It is further submitted that in view of the law laid down by the Hon'ble Division Bench of this Court in **Paramjit Kumar Saroya Vs. Union of India and another**, reported as **2016(3) RCR (Civil) 146**, it is open to any aggrieved person to file an appeal before the Appellate Tribunal which is the District Magistrate in the present case.

4. Learned counsel for the petitioner has submitted that in view of the same, he seeks permission of this Court to withdraw the present Civil Writ Petition with liberty to file an appeal as per the abovesaid Notification and the judgment passed by the Hon'ble Division Bench in ***Paramjit Kumar Saroya's*** case (Supra) and has further submitted that since, the petitioner was pursuing the present remedy of writ petition thus, in case appeal is filed within a period of one month from today, the Appellate Tribunal be directed not to dismiss the same solely on the ground of limitation.

5. In view of the above, the present Civil Writ Petition is dismissed as withdrawn with liberty aforesaid.

6. It is made clear that in case, the said appeal is filed within a period of one month from today, the Appellate Tribunal is directed not to dismiss the same solely on the ground of limitation.

7. All the pending miscellaneous applications, if any, shall stand disposed of in view of the abovesaid order.

02.11.2023

Pawan

(VIKAS BAHL)
JUDGE

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No