

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CR-5915-2023

Date of Decision: 20.10.2023

Sewa Singh

....Petitioner

VERSUS

Surmukh Singh and others

....Respondents

CORAM:- HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. G.N.Malik, Advocate,
for the petitioner.

KARAMJIT SINGH, J. (Oral)

Counsel for the petitioner made submission that respondents No.1 to 4 filed appeal against the judgment and decree dated 4.10.2018 and the said appeal remained pending for 5 years and finally, on 29.7.2023, counsel for the said respondent made statement seeking permission to withdraw the appeal with liberty to file afresh and the period of limitation is to be condoned and consequently, the first appellate Court passed the impugned order dated 29.7.2023. Being aggrieved, the petitioner has approached this Court to challenge the said order.

2. From the perusal of the aforesaid impugned order, it appears that the appeal stands dismissed as withdrawn without any liberty to file afresh and the period of limitation being condoned.

3. Counsel for the petitioner further submits that on the basis of the impugned order, fresh appeal has been filed by respondents No.1 to 4 and the same has been entertained by the first appellate court without taking into consideration the fact that earlier, the appeal filed by the respondents is

already dismissed as withdrawn without any liberty to file afresh or to condone the delay in filing of fresh appeal.

4. In view of above, the present petition is hereby disposed of without commenting on the merits of the case with liberty to the petitioner to raise preliminary objection with regard to maintainability of the fresh appeal stated to have been filed by the respondents No.1 to 4 and is pending in the Court of Additional District Judge, Fatehgarh Sahib and in case any such objection is raised by the petitioner, the same is to be considered in accordance with law at the first instance by the said Court before proceeding ahead with the said appeal.

(KARAMJIT SINGH)
JUDGE

October 20, 2023
Paritosh Kumar

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No