



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(123)

LPA-2760-2024 (O&M)

Decided on : 07.11.2024

Surinder Singh

.....Appellant(s)

Versus

State of Punjab & others

.....Respondent(s)

**CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA
HON'BLE MR.JUSTICE DEEPAK GUPTA**

Present: Mr.Rakesh Bhatia, Advocates for the appellant.

Ms.Arundhati Kulshrestha, AAG, Punjab.

G.S. Sandhawalia, J.(Oral)

1. Consideration in the present appeal is to judgment dated 25.07.2024 passed in CWP-14452-2024.

2. Admittedly, challenge was raised to the judgment and decree dated 05.06.2012 passed by the Civil Judge (Junior Division), Ludhiana on the basis that the judgment was gained by fraud. When the matter came up before the Learned Single Judge, it transpired that an application was filed under Order 9 Rule 13 CPC which had been dismissed. Resultantly, the Learned Single Judge had relegated the present appellant to the alternate remedy, in accordance with law on 01.07.2024.

3. Not satisfied with the same, thereafter, application bearing CM-11228-CWP-2024 for recalling the said order was filed. Learned Single Judge devoted 10 paragraphs and resultantly, order dated 01.07.2024 was recalled by noting that the writ petition had been filed after more than 5 years when the application under Order 9 Rule 13 CPC was filed and resultantly, the writ petition was dismissed on account of raising disputed questions of fact and availability of alternative remedy.

4. The law is settled on this ground that once there is an alternate remedy available, writ jurisdiction is not liable to be exercised. Even otherwise, where there is issue of fraud, it is a disputed question of fact. The appellant was never party to the said suit and therefore, we do not see any tangible reason as to how the writ petition could have been entertained as it is trite law that the Writ Court is not to go into the disputed questions of fact. Resultantly, we are of the considered opinion that the Learned Single Judge was well justified in relegating the appellant to his alternate remedy.

5. Accordingly, in view of the above discussion, finding no merit in the present appeal, the same is hereby dismissed.

(G.S. SANDHAWALIA)
JUDGE

(DEEPAK GUPTA)
JUDGE

07.11.2024
sailesh

Whether speaking/reasoned :	Yes
Whether Reportable :	No