

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Sr. No.114

CMS-1183-84-LPA-2024 in/and

LPA-489-2024

Date of decision : 20.02.2024

Saraswati Kunj Cooperative House
Building Society Ltd. and another

..... Appellants

Versus

Shashi Toteja and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL
HON'BLE MR. JUSTICE DEEPAK MANCHANDA

Present : Mr.Ashwani Kumar Chopra, Senior Advocate, with
Mr.R.D.Gupta, Advocate, for the appellants.

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DEEPAK SIBAL, J. (Oral)

1. There is a delay of 280 days in filing and 40 days in refiling of the instant intra court appeal.
2. After depositing Rs.1,93,750/- towards membership fee respondent No.1 was inducted as a member of the appellant-society. Thereafter, a plot measuring 250 square yards was allotted to respondent No.1. However, since there was considerable delay on the part of the appellant-society in handing over of possession of the allotted plot, respondent No.1 made a request to the appellant-society to refund her membership fee. The appellant-society, relying on Rule 18(2) of the Haryana Cooperative Societies Rules, 1989, though agreed to refund respondent No.1's membership fee but refused to grant her any interest. Such denial was challenged by respondent No.1 through filing of an application under Section 22(C) of the Legal Services Authority Act, 1987 before the Permanent Lok Adalat (Public Utility Services), Gurugram (for short, the Lok Adalat). After considering the rival claims, the Lok Adalat, through its award dated 26.03.2015, directed the appellant-society to refund respondent No.1's membership fee with interest @ 9% per annum from 14.11.2011 (the date when respondent No.1 had

filed her application with the appellant-society seeking therein refund of her membership fee) till the date of actual payment.

3. The appellant-society did not challenge the award of the Lok Adalat. However, respondent No.1 petitioned this Court for modification of the Lok Adalat's award as according to her she was entitled to the grant of interest from the date of deposit of her membership fee and that too at a rate higher than what had been awarded by the Lok Adalat. Through the impugned judgment a learned Single Judge of this Court upheld the Lok Adalat's award.

4. While disposing of respondent No.1's petition the learned Single Judge directed the appellant-society to deposit the amount awarded by the Lok Adalat with the executing court at Gurugram within eight weeks from the date of the impugned judgment. Since the judgment of the learned Single Judge is dated 20.01.2023 the appellant-society was required to make the deposit on or before 17.03.2023. However, till date no deposit has been made by the appellant-society. No application was filed by the appellant-society seeking therein any extension in time to make the deposit. No worthwhile explanation has also been offered as to why the deposit was not made. This inaction on the part of the appellant-society is contemptuous.

5. In the application filed by the appellant-society under Section 5 of the Limitation Act, 1963 it has nowhere been stated as to when the impugned judgment dated 20.01.2023 was received in the office of the appellant-society. The delay of 280 days in the filing of the instant appeal is also not found to have been satisfactorily explained. The only reason offered is that the appellant-society was not being managed by an elected body. Even if it was so, there was always a Board of Administrators governing the appellant-society with its Chairman being none other but the Deputy Commissioner, Gurugram.

6. In the light of the above, we are not inclined to exercise our discretion

to condone the inordinate delay in the filing and refiling of the appeal at the behest of a contemnor especially when such delay has also not been satisfactorily explained. Resultantly, the applications filed for condonation of delay are dismissed and consequently, the appellants’ appeal also meets the same fate as the afore applications.

7. No costs.

[DEEPAK SIBAL]
JUDGE

20.02.2024
shamsher

[DEEPAK MANCHANDA]
JUDGE

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