



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

CWP-11589-2026 (O&M)
Date of Decision: 18.04.2026

Shri Ashish Seth and Another

...Petitioners

Versus

Permanent Lok Adalat for Public Utility Services and Others

...Respondents

CORAM:- HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Kunal Dawar, Senior Advocate with
 Mr. Vipul Sharma, Advocate and
 Ms. Shruti Mandhotra, Advocate
 for the petitioners.

JAGMOHAN BANSAL, J. (ORAL)

1. The petitioners through instant petition under Articles 226/227 of the Constitution of India are seeking setting aside of award dated 22.07.2022 whereby learned Permanent Lok Adalat, Faridabad (for short 'PLA') has allowed respondent No.2's application under Section 22C of Legal Services Authorities Act, 1987 (for short '1987 Act'). They are further seeking setting aside of orders passed by Civil Judge (Junior Division), Faridabad whereby conditional warrants have been issued against them.

2. The petitioners are Directors of M/s Ferrous Infrastructure Private Limited. The aforesaid company is engaged in the business of real estate. Vinod Kumar Nigam and his wife-Kiran Nigam paid a sum of Rs.15,79,000/- to aforesaid company. The payment was made with respect to 2BHK Flat No.103, Tower "D", Ferrous City, Sector-89,

Faridabad. The respondent-company neither handed over aforesaid flat nor returned invested money, thus, Vinod Kumar Nigam and his wife approached learned PLA under Section 22C of 1987 Act. The company filed its response disputing liability. Learned PLA vide order dated 22.07.2022 partly allowed application and directed the respondents to pay a sum of Rs.15,79,000/- to applicants. Neither the company nor its Directors complied with orders of learned PLA, thus, decree holder approached Civil Court seeking execution of decree. Learned Civil Judge (Junior Division), Faridabad issued conditional warrant of arrest. At one stage, execution application was dismissed in default, however, it was restored. Learned Civil Judge (Junior Division), Faridabad again issued conditional warrant of arrest.

3. Learned Senior Advocate representing the petitioners submits that Executing Court is travelling beyond the order passed by learned PLA. The liability was fastened upon company which is under liquidation. The petitioner No.2 at the time of passing impugned order was no more Director of the company. The impugned order passed by learned PLA is silent *qua* liability of the Directors. Learned PLA was supposed to record categorical findings with respect to liability of Directors. The Directors cannot be held liable for the liability of the company.

4. Heard the arguments and perused the record.

5. From the perusal of record, it is evident that impugned order was passed on 22.07.2022. It was not an *ex parte* order. Learned counsel on being asked reason of inordinate delay failed to advance any plausible reason. He simply submitted that company was contesting the matter and

Directors/petitioners were unaware.

6. No hard-and-fast rule can be laid down as to when the High Court should refuse to exercise its jurisdiction in favour of a party who moves it after considerable delay and is otherwise guilty of laches. Discretion must be exercised judiciously and reasonably. In the event that the claim made by the applicant is legally sustainable, delay should be condoned. Where illegality is manifest, cannot be sustained on the sole ground of laches. When substantial justice and technical considerations are pitted against each other, the cause of substantial justice deserves to be preferred. State cannot deprive vested right because of a non-deliberate delay.

7. A two Judge Bench of Supreme Court recently in '***Mrinmoy Maity Vs. Chhanda Koley and others***' 2024 SCC OnLine SC 551 has held that High Court ought to dismiss petition on the ground of delay and laches where there is no explanation of delay. An applicant who approaches the Court belatedly or in the other words sleeps over his rights for a considerable period ought not to be granted the extraordinary relief by writ Courts. Delay defeats equity. High Court may refuse to invoke its writ jurisdiction if laxity on the part of applicant has allowed the cause of action to drift away and attempts are made to rekindle the lapsed cause of action. Multiple communications cannot create cause of action. The relevant extracts of the judgment are reproduced as below:

“9. Having heard rival contentions raised and on perusal of the facts obtained in the present case, we are of the considered view that writ petitioner ought to have been non-suited or in other words writ petition ought to have been dismissed on the ground of delay and laches itself. An applicant who approaches the court belatedly or in

other words sleeps over his rights for a considerable period of time, wakes up from his deep slumber ought not to be granted the extraordinary relief by the writ courts. This Court time and again has held that delay defeats equity. Delay or laches is one of the factors which should be born in mind by the High Court while exercising discretionary powers under Article 226 of the Constitution of India. In a given case, the High Court may refuse to invoke its extraordinary powers if laxity on the part of the applicant to assert his right has allowed the cause of action to drift away and attempts are made subsequently to rekindle the lapsed cause of action.

10. *The discretion to be exercised would be with care and caution. If the delay which has occasioned in approaching the writ court is explained which would appeal to the conscience of the court, in such circumstances it cannot be gainsaid by the contesting party that for all times to come the delay is not to be condoned. There may be myriad circumstances which gives rise to the invoking of the extraordinary jurisdiction and it all depends on facts and circumstances of each case, same cannot be described in a straight jacket formula with mathematical exercised by the writ court depends upon the facts that it has to travel or the terrain in which the facts have travelled.*

11. *For filing of a writ petition, there is no doubt that no fixed period of limitation is prescribed. However, when the extraordinary jurisdiction of the writ court is invoked, it has to be seen as to whether within a reasonable time same has been invoked and even submitting of memorials would not revive the dead cause of action or resurrect the cause of action which has had a natural death. In such circumstances on the ground of delay and laches alone, the appeal ought to be dismissed or the applicant ought to be non-suited. If it is found that the writ petitioner is guilty of delay and laches, the High Court ought to dismiss the petition on that sole ground*

itself, in as much as the writ courts are not to indulge in permitting such indolent litigant to take advantage of his own wrong. It is true that there cannot be any waiver of fundamental right but while exercising discretionary jurisdiction under Article 226, the High Court will have to necessarily take into consideration the delay and latches on the part of the applicant in approaching a writ court.”

8. The company which accepted funds from innocent investors is a Private Limited Company. It is well-known that private companies are ordinarily closely knitted companies. The petitioners are not denying that they were never Directors of the company. They have not placed on record shareholding pattern of the company which must have disclosed that they were prime shareholders of the company. They were respondents before learned PLA. The application was allowed by learned PLA. The order was passed on 22.07.2022 and present petition has been filed after almost four years before this Court. They adopted all ways and means to defer their liability. The innocent investor availed all possible remedies. The petitioners at the cost of investors are pursuing litigation and not discharging their liability.

9. Section 22E provides that award passed by learned PLA shall be final and binding on all the parties. The award cannot be called in question in any original suit, application or execution proceedings. It is factually and legally correct that award passed by learned PLA can be examined in writ jurisdiction, however, mandate of Section 22E cannot be ignored. The award can be examined in writ jurisdiction if there is manifest procedural or fundamental error or PLA has passed award beyond its jurisdiction. There is no such argument or allegation in the present case. Learned PLA has passed impugned order after following

prescribed procedure and granting opportunity of hearing.

10. A Constitution Bench in *Syed Yakoob Vs K.S. Radhakrishnan*, AIR 1964 SC 477 and a two judge bench of the Hon'ble Supreme Court recently in *Central Council for Research in Ayurvedic Sciences and another Vs Bikartan Das and others 2023 SCC Online SC 996* have reminded us that there are two cardinal principles of law governing issuance of writ of certiorari under Article 226 of the Constitution of India i.e. (i) High Court does not exercise the powers of Appellate Tribunal. It does not review or reweigh the evidence upon which the determination of the inferior tribunal purports to be based. It demolishes the order which it considers to be without jurisdiction or palpably erroneous but does not substitute its own views for those of the inferior tribunal. The writ of certiorari can be issued if an error of law is apparent on the face of the record; (ii) in a given case, even if some action or order challenged in the writ petition is found to be illegal and invalid, the High Court while exercising its extraordinary jurisdiction thereunder can refuse to upset it with a view to doing substantial justice between the parties. It is perfectly open for the writ court, exercising this flexible power to pass such orders as public interest dictates & equity projects. The High Court would be failing in its duty if it does not notice equitable consideration and mould the final order in exercise of its extraordinary jurisdiction. Any other approach would render the High Court a normal court of appeal which it is not.

11. A writ of certiorari can be issued for correcting errors of jurisdiction committed by inferior courts or tribunals. Error of jurisdiction includes order by inferior court or tribunal without jurisdiction or in

excess of it or as a result of failure to exercise jurisdiction. A writ can similarly be issued where in exercise of jurisdiction conferred on it, the Court or Tribunal acts illegally or improperly, as for instance, it decides a question without giving an opportunity to be heard to the party affected by the order, or where the procedure adopted in dealing with the dispute is opposed to principles of natural justice. There is, however, no doubt that the jurisdiction to issue a writ of certiorari is a supervisory jurisdiction and the Court exercising it is not entitled to act as an appellate Court. This limitation necessarily means that findings of fact reached by the inferior Court or Tribunal as result of the appreciation of evidence cannot be reopened or questioned in writ proceedings. An error of law which is apparent on the face of the record can be corrected by a writ, but not an error of fact, however grave it may appear to be. In regard to a finding of fact recorded by the Tribunal, a writ of certiorari can be issued if it is shown that in recording the said finding, the Tribunal had erroneously refused to admit admissible and material evidence, or had erroneously admitted inadmissible evidence which has influenced the impugned finding. Similarly, if a finding of fact is based on no evidence, that would be regarded as an error of law which can be corrected by a writ of certiorari. In dealing with this category of cases, however, High Court must always bear in mind that a finding of fact recorded by the Tribunal cannot be challenged in proceedings for a writ of certiorari on the ground that the relevant and material evidence adduced before the Tribunal was insufficient or inadequate to sustain the impugned finding. The adequacy or sufficiency of evidence led on a point and the inference of fact to be drawn from the said finding are within the exclusive

jurisdiction of the Tribunal, and the said points cannot be agitated before a writ Court. It is within these limits that the jurisdiction conferred on the High Courts under Art. 226 to issue a writ of certiorari can be legitimately exercised.

12. In the wake of aforecited judgment of Hon’ble Supreme Court and considering inordinate delay on the part of petitioners, this Court does not find it appropriate to invoke its extra-ordinary writ jurisdiction.

13. ***Dismissed.***

14. Pending application(s), if any, shall also stand disposed of.

(JAGMOHAN BANSAL)
JUDGE

18.04.2026
Prince Chawla

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No