

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

(1) C.A.C.P. No. 6 of 2017 (O&M)
Date of Decision: 10.01.2019

Zile Singh Appellant

Versus

Deva Singh Respondent

AND

(2) C.A.C.P. No. 7 of 2017 (O&M)

Sube Singh Appellant

Versus

Deva Singh Respondent

**CORAM: HON'BLE MR. JUSTICE JASWANT SINGH
HON'BLE MR. JUSTICE ARUN KUMAR TYAGI**

Present: Mr. Vikram Singh, Advocate for the appellant
(CACP No. 6 of 2017)

Mr. Kanwaljit Singh, Senior Advocate, assisted by
Mr. S.K. Liberhan, Advocate for the appellant
(CACP No. 7 of 2017)

Mr. Jai Bhagwan, Advocate
for the respondent-Deva Singh (in both cases)

JASWANT SINGH, J. (ORAL)

CM No. 16512-CII of 2017 in CACP No. 6 of 2017

Present application moved under Section 5 of Limitation Act by the counsel for applicant-appellant is for condonation of delay of twenty-six (26) days in filing the appeal.

For the reasons stated in the application, which is duly supported by the affidavit of the appellant, the same is **allowed** and the delay of twenty-six (26) days in filing the appeal is condoned.

CM No. 18368-CII of 2017 in CACP No. 7 of 2017

Present application moved under Section 5 of Limitation Act by the counsel for applicant-appellant is for condonation of delay of forty-eight (48) days in filing the appeal.

For the reasons stated in the application, which is duly supported by the affidavit of the appellant, the same is **allowed** and the delay of forty-eight (48) days in filing the appeal is condoned.

MAIN CASE(S)

This common order shall dispose of both the present contempt appeals bearing CACP Nos. 6 & 7 of 2017 as the same have arisen out of the common order dated 06.06.2017 passed by learned Single Judge of this Court in COCP No. 2977 of 2015, whereby both the appellants, namely, Zile Singh and Sube Singh have been held to be guilty of Contempt of Court, however, the sentence was yet to be pronounced.

The facts in brief are that Zile Singh claimed to be a tenant in possession over a suit property land measuring 12 Kanals 5 Marlas, situated in Village Mohmad Nagar, Tehsil & District Karnal. Zile Singh alongwith his brothers/co-tenants filed a suit on 03.02.1995 for symbolic possession by way of pre-emption and for setting aside of the sale-deed dated 05.07.1994 executed by the owner/landlord in favour of Deva Singh (respondent herein). The suit was partly decreed vide judgment and decree dated 18.09.1997 *qua* 3 Kanals 16 Marlas only. The appellant-tenant as well as Deva Singh both filed their separate appeals. The First Appellate Court vide judgment and decree dated 05.03.1999 accepted the appeal of Deva Singh, while dismissing the appeal of Zile Singh, and simultaneously dismissing the suit. Zile Singh filed an RSA No. 1073 of 1999 before this Court, which

was admitted for regular hearing, while passing an interim order dated 27.04.1999, directing the maintenance of *status quo* regarding possession.

Respondent-Deva Singh filed COCP No. 2977 of 2015 claiming that the interim directions dated 27.04.1999 passed in the aforesaid RSA No. 1073 of 1999 had been violated inasmuch as Zile Singh in connivance and active participation of Sube Singh, the SHO of the area, i.e., appellant (in CACP No. 7 of 2017) had forcibly taken possession on 15.10.2015.

During the course of contempt proceedings, an order dated 17.02.2017 was passed seeking a report from the Chief Judicial Magistrate (CJM), Karnal with regard to the alleged violation by Zile Singh and Sube Singh-SHO.

The report was produced at the time of hearing on 06.06.2017 and based on the findings in the report, the impugned order dated 06.06.2017 was passed by learned Single Judge/Contempt Court, convicting both Zile Singh and Sube Singh for violation of the interim orders dated 27.04.1999.

Both the counsel for the appellant(s) submit that the appellants were granted no opportunity to examine the report produced at the time of hearing on 06.06.2017, and even otherwise, learned Contempt Court has noticed that the report of the CJM, Karnal, itself states that the version of Deva Singh regarding the alleged violation appears to be more probable, and hence the standard of proof being beyond reasonable of doubt in contempt proceedings, the impugned order requires to be set aside.

On the other hand, Mr. Jai Bhagwan, counsel for respondent-Deva Singh, submits that the present appeals are not maintainable as no order of sentence has been passed till now.

Before we could proceed to decide on the maintainability of the present appeal(s) against the order of conviction, both the counsel for the parties have agreed that the matter be heard afresh by the Contempt Court in view of the fact that the appellants/alleged contemnors were not given any opportunity to examine the report submitted by the CJM, Karnal regarding findings against them.

In view of the aforesaid agreed stand of the counsel for parties, the **order dated 06.06.2017** is **set aside** and the parties are directed to appear before the Contempt Court on a date to be fixed by that Court for a decision afresh on merits in accordance with law. The parties would be free to address all the pleas before the Contempt Court.

Both the **appeals** are **disposed of** accordingly.

(JASWANT SINGH)
JUDGE

(ARUN KUMAR TYAGI)
JUDGE

January 10, 2019

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<i>Whether Speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>