

(2003) 07 P&H CK 0054

High Court Of Punjab And Haryana At Chandigarh**Case No:** Civil Writ Petition No. 2387 of 1987

Chaman Lal and Others

APPELLANT

Vs

Municipality and Others

RESPONDENT

Date of Decision: July 2, 2003**Acts Referred:**

- Constitution of India, 1950 - Article 226
- Haryana Municipal Act, 1973 - Section 240(1)

Citation: (2004) 136 PLR 234(1) : (2003) 4 RCR(Civil) 330**Hon'ble Judges:** V.K. Bali, J**Bench:** Single Bench**Advocate:** C.B. Goel, for the Appellant; Ajai Lamba, for the Respondent**Final Decision:** Dismissed

Judgement

@JUDGMENTTAG-ORDER

V.K. Bali, J.

Challenge in this petition filed under Article 226 of the Constitution of India is to orders Annexure P3 and P4 both dated 15.10.1986 as also the Memand notices Annexures P8 and P9. The matter has been heard at some length. During the course of arguments Mr. Ajai Lamba, learned counsel, who represents respondents-Municipal Committee, Yamuna Nagar, refers to Section 240(1)(c) of the Haryana Municipal Act, 1973 and on the basis thereof states that an alternative remedy of appeal against the impugned orders is competent.

2. It requires to be mentioned that argument with regard to alternative remedy has been raised orally, as concededly, it has not been put into writing in the written statement. On the statement made by Mr. Lamba, Mr. C.B. Goel, learned counsel representing the petitioners prays that this petition may be dismissed as withdrawn with liberty to the petitioners to avail an alternative remedy of appeal against the

impugned orders referred to above. He further prays that inasmuch as, the petitioners were on a legal advise and bonafidely litigating in this Court, period for filing the appeal, which is 30 days under the statute, should be extended.

3. The Court may not make any specific order with regard to condonation of delay as it is always in the discretion of the appellate authority to condone the delay after considering totality of the facts and circumstances of the case.

4. Suffice it, however, to mention that the point with regard to availability of an alternative remedy has been raised, as mentioned above for the first time during the course of arguments and that too orally. The appellate authority while considering the prayer of the petitioners for condonation of delay would take into consideration the aforesaid fact and pass orders in accordance with law.

5. The present writ petition is dismissed as withdrawn with liberty to the petitioners to file an appeal against the impugned orders.