

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Civil Revision No. 1412 of 2014 (O&M)

DATE OF DECISION : October 20, 2015

Sunder Singh

..... PETITIONER(S)

VERSUS

Sheoran Singh & ors.

.... RESPONDENT(S)

CORAM : HON'BLE MR. JUSTICE ARUN PALLI

**Present: Mr. Akshay Jindal, Advocate, for the petitioner.
Mr. P.R. Yadav, Advocate, for respondent No.1.**

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1. Whether Reporters of local newspapers may be allowed to see the judgment? YES/NO

2. To be referred to the Reporter or not? YES

3. Whether the judgment should be reported in the digest? YES/NO

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ARUN PALLI, J. (Oral)

Vide order being assailed, dated 03.12.2014, rendered by Additional District Judge, Gurgaon, application for condonation of delay moved by the petitioner-plaintiff in filing the Miscellaneous Appeal has since been dismissed. The conclusion recorded by the appellate court in support of its order, reads as

"5. Admittedly, injunction application filed by the applicant-appellant was dismissed on 26.7.2011. Still further, the present appeal was filed on 3.12.2013. There is therefore, a delay of 850 days in filing the appeal. The explanation given by the appellant-applicant that he was not informed about the decision of the application by his counsel is not acceptable. The matter was pending for all this time. Counsel were appearing. Even an application for amendment of the plaint was moved by the applicant-appellant which is still pending. It can not, therefore, be said that the applicant-appellant was not aware about the fate of the application for the grant of ad-interim injunction. No doubt matters should not normally be rejected on technicalities and they should preferably be decided on merits. However, it has to be borne in mind that limitation is also provided for a specific purpose. There has to be a finality to everything. No body can be permitted to wake up after almost three years and say that his counsel had not informed him about the dismissal of the application. In the considered opinion of this court the applicant-appellant has not at all been able to show any sufficient cause for the delay in filing the present appeal.

6. In view of the above, I do not find any merit in the application for condonation of delay and the same is hereby dismissed."

Concededly, the application moved by the petitioner-plaintiff was dismissed by the trial court on 26.07.2011. An appeal preferred against the said order was barred by 850 days. The only explanation rendered in this regard by the petitioner was that he was not informed by his counsel of the order dated 26.07.2011. Post dismissal of his application for injunction on

26.07.2011, petitioner had been pursuing his suit through the same counsel. So much so, he had even moved an application for amendment of the plaint, that was still pending when he filed the appeal. That being so, version of the petitioner-plaintiff that he was never informed or apprised by his counsel as regards the fate of his application and order declining injunction is palpably false and erroneous. Prayer for an ad-interim injunction contains an inherent element of urgency, that was, apparently, lost as the petitioner did not choose to pursue his injunction application for a period of over 2 years.

Learned counsel for the petitioner could not point out as to how the conclusion that has been arrived at by the learned appellate court was either contrary to the position on record or suffers from any material illegality.

That being so, no interference is warranted in exercise of revisional jurisdiction under Article 227 of the Constitution of India. Petition being devoid of merit is, accordingly, dismissed in limine.

OCTOBER 20, 2015
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(ARUN PALLI)
JUDGE