

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

**CR No.1728 of 2014 (O&M)
Date of decision: 22.01.2015**

Ranjeet Singh and others

....Petitioners

Versus

Prabhdyal Singh and others

...Respondents

CORAM: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. Navdeep Chhabra, Advocate for the petitioners.

Rakesh Kumar Jain, J. (Oral)

The present revision petition is filed against the order of the Appellate Court by which application filed by the petitioners for condonation of delay of about seven months has been dismissed.

In brief, the present petitioners are defendants No.7 to 16 in the suit filed by the plaintiffs for seeking a declaration that they are in possession of the land to the extent of 1/3rd share of land measuring 45 kanals 4 marlas on the basis of natural succession. The said suit was filed on 19.10.2009 and the plaintiff through her legal heirs was held entitled to 1/4th share in the suit land and the sale deeds in favour of defendants No.7 to 16 to the extent of 1/4th share of the plaintiff in the suit land was set aside.

As per Section 96 of the Civil Procedure code (for short 'CPC'), the defendants had a right to file an appeal subject to the limitation provided in Article 116 (b) of the Limitation Act, 1963. The appeal could have been filed within thirty days after excluding the period spent in obtaining certified copy of the judgment and decree of the trial Court. Admittedly, the appeal was delayed about seven months and as such it was filed along with an application under Section 5 of the Limitation Act. The reasons given in the application was that they were not aware of the decision of the trial Court and came to know about it in the execution.

From the pleadings of the parties, two issues were framed by the Appellate Court to decide the application for condonation of delay and allowed the parties to lead evidence. After considering the evidence, the Appellate Court found that there was no sufficient cause given by the petitioner for condoning the delay.

Counsel for the petitioner has argued that in the suit, defendants No.1 to 6 are the family members of the plaintiff, out of whom defendant No.1 appeared in the suit and filed admitted written statement whereas, defendants No.2 to 6 did not contest the suit. Therefore, it was a collusive suit but at the same time, it is admitted by him that they had also not lead any evidence. In the absence of any evidence on behalf of defendants the trial Court had decided the issues in favour of the plaintiff and decreed the suit.

It is the case of the petitioner that they were not present before the Court and their advocate did not inform them about the

result of the suit and also did not give advise to file the appeal within time. It is also submitted that otherwise case of the petitioner is meritorious which should not have been dismissed merely on the ground of delay.

I have heard learned counsel for the petitioners and after examining the record, I am of the considered opinion that there is no merit in this case because the petitioners have been thoroughly casual in their approach in pursuing this litigation. Inasmuch as they did not lead any evidence despite the opportunities given by the trial Court and hence the suit was decreed. They have tried to blame their advocate that he did not inform them about the result of the suit. If they have really been duped by the said advocate, engaged in the trial Court, the petitioners should have filed a complaint against the said advocate in the Bar Association of which he is a Member and also to the Bar Council who has given him licence to practise law. In the absence of all these proceedings, which could have been carried out, I am of the considered opinion that the advocate cannot be blamed since he is not a party before me to defend himself. Thus, the petitioners are themselves guilty of not pursuing their litigation with zeal and due diligence.

Keeping in view the above said facts and circumstances of the case I do not find any merit in this revision petition.

Accordingly, the present revision petition stands dismissed.

January 22, 2015
Manoj Bhutani

(Rakesh Kumar Jain)
Judge