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

CR No.2275 of 2015

Date of decision: April 01, 2015

Swaranjit Singh alias Sarabjit Singh

.....Petitioner

Versus

Rupinder Kaur and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Deepak Arora, Advocate
for the petitioner.

SABINA, J

Petitioner has filed this petition challenging the order dated 09.02.2015, whereby application moved by the respondents No.1 to 10 for condonation of delay in filing the appeal, was allowed.

I have heard learned counsel for the petitioner and have gone through the record available on the file carefully.

Chanan Kaur had filed suit for declaration that she was the joint owner of the suit land. The trial Court vide judgment/decreed dated 05.09.2009, decreed the suit filed by Chanan Kaur. Aggrieved against the said decree, respondents No.1 to 10 filed an appeal. Alongwith the appeal, application under Section 5 of the Limitation Act, 1963 was filed for condonation of delay in filing the appeal. The said application was allowed by the Appellate Court vide the impugned order.

The case of the respondents No.1 to 10 was that respondent

No.1 was pursuing the case on behalf of other applicants. However, due to some marriage in the family, she could not contact their counsel. The delay in filing the appeal was neither intentional nor deliberate.

It has been held by the Apex Court in **Collector Land Acquisition Ananatnag and others vs. Mst. Katiji and others**, AIR 1987 SC 1353 which reads as under:-

- “1. Ordinarily a litigant does not stand to benefit by lodging an appeal late.
2. Refusing to condone delay can result in a meritorious matter being thrown out at the very threshold and cause of justice being defeated. As against this when delay is condoned the highest that can happen is that a cause would be decided on merits after hearing the parties.
3. “Every day's delay must be explained” does not mean that a pedantic approach should be made. Why not every hour's delay every second's delay? The doctrine must be applied in a rational common sense pragmatic manner.
4. When substantial justice and technical consideration are pitted against each other cause of substantial justice deserves to be preferred for the other side cannot claim to have vested right in injustice being done because of a non-deliberate delay.
5. There is no presumption that delay is occasioned deliberately, or on account of culpable negligence, or on account of mala fides.

A litigant does not stand to benefit by resorting to delay. In fact, he runs a serious risk.

6. It must be grasped that judiciary is respected not on account of its power to legalize injustice on technical grounds but because it is capable of removing injustice and is expected to do so."

Thus, in the present case, the delay in filing the appeal cannot be said to be deliberate or intentional as due to some domestic reasons, respondent No.1 could not contact the counsel for filing the appeal. Moreover, since the delay in filing the appeal has been condoned, the appeal filed by the respondents No.1 to 10 would be disposed of on merits.

No ground for interference by this Court, is made out.

Dismissed.

**(SABINA)
JUDGE**

April 01, 2015
m.singh