

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

**Civil Revision No.4846 of 2012
Date of Decision: August 11, 2015**

Kulwant Singh Sehrawat

.... Petitioner

vs.

**M/s Shakti Hire Purchase and
General Finance Company**

.... Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. Anurag Jain, Advocate for the petitioner.

Mr. Ashwani Bhardwaj, Advocate for respondent No.1.

1. Whether Reporters of Local Newspapers may be allowed to see the judgment?

2. To be referred to the Reporters or not?

3. Whether the judgment should be reported in the Digest?

Kuldip Singh J.(Oral)

Impugned in the present revision petition is the order dated 23.07.2012 (Annexure P-3) passed by learned Civil Judge (Jr. Divn.), Hisar, vide which the application of the defendant/petitioner for dismissal of the suit under Order VII, Rule 11 CPC was dismissed.

Brief facts of the case are that the plaintiff/respondent has filed a suit of recovery of ₹90,000/- on the basis of cheque No.529942, dated 24.03.2001. The suit was filed on 18.03.2011. In the said suit, the present application was filed that suit is time barred. I have heard learned counsel for the parties and have also carefully gone through the case file.

It comes out that previously the plaintiff had filed a complaint under Section 138 of the Negotiable Instruments Act. In the said complaint, the matter was compromised before the lower court and the same was challenged before this Court. On 09.02.2011, this Court passed the following order:

“The dispute in the present cases is in respect of cheque No.529943 dated 24.3.2001 valuing Rs.90,000/-. The complaint was pending. In the meantime, parties are stated to have compromised and on that account the accused was acquitted. The said order has been challenged.

The dispute is inter se between the partners of M/s Shakti Hire Purchase and General Finance Company. Counsel for the appellant wants to withdraw the appeal with liberty to file a suit against the erring party.

The appeal stands dismissed as withdrawn with the aforesaid liberty.”

Now taking benefit of this order, the plaintiff claims that the suit is within limitation. The lower court has also taken the view that keeping in view the order dated 09.02.2011 passed by this Court in CRM-A No.283-MA of 2008, the present suit is within limitation.

I am of the view that the order of the Court has been misinterpreted. In the said case a criminal misc. application was filed wherein the respondent sought the withdrawal of the said appeal with liberty to file a suit against the erring party. The said liberty was granted. This court nowhere meant that if a suit is filed, the limitation shall also stand condoned. It is for the plaintiff to plead as to how the

suit is within limitation and if he seeks condonation of delay on certain grounds, an appropriate application in this regard is to be filed.

In this way, the impugned order is not sustainable in the eye of law and is set aside.

Learned counsel of the plaintiff before the lower court has contended that he wants to file appropriate application seeking condonation of delay.

If the application is filed, the same shall be disposed of in accordance with law. The lower court is directed to decide the application afresh after considering that this Court never meant that the delay in filing the suit stands condoned.

Accordingly, the present revision petition is allowed to the said extent.

August 11, 2015
sarita

(KULDIP SINGH)
JUDGE