

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

**CR No.5610 of 2013 (O&M)
Date of decision: 7.9.2015**

S. Narinder Singh and others

..... Petitioners

Versus

S. Harpal Singh Makkar and others

..... Respondents

CORAM : HON'BLE MR.JUSTICE ARUN PALLI

Present : Mr. Rishu Mahajan, Advocate for the petitioners.

Mr. Karanjit Singh, Advocate for respondents No.2 and 3.

ARUN PALLI, J. (Oral)

Concededly, the eviction petition filed by the petitioners-landlord was dismissed by the Rent Controller, vide order dated 22.05.2012. Along with the appeal filed against the order dated 22.05.2012, an application for condonation of delay of 9 days was also moved. However, as the said application was dismissed by the Appellate Authority, vide order dated 31.05.2013, consequently, the appeal was also dismissed being barred by time.

The conclusion arrived at in this regard reads, as thus:-

“In my considered opinion, there is no doubt regarding the fact that petitioner Narinder Singh suffered heart problem and got himself checked from Dhillon MRI

Scan Centre on 22.05.2012. This fact is corroborated by the copy of MRI Scan Report Ex.A1 dated 22.05.2012 tendered by the petitioner. However, there is no documentary proof on the record to show that Narinder Singh was admitted in any hospital on 22.05.2012 and for how long he remained in the hospital. Furthermore, there is no documentary proof/evidence regarding death of his brother. Even the date of death of his brother has not come on the record. The fact remains that although date of decision was 22.05.2012, the certified copy has been supplied much later i.e. 5.7.2012 i.e. nearly 36 days after the decision, after the supply of the certified copy of the order of Rent Controller, the petitioner is liable to give explanation for each day's delay occurring in filing the appeal”.

Order rejecting the eviction petition was rendered by the Rent Controller on 22.05.2012 and the certified copy thereof was made available on 5.7.2012. Therefore, appeal ought to have been filed by 19.07.2012, but was indeed filed on 28.07.2012, and thus a meagre delay of 9 days occurred in filing the appeal. A bare analysis of the order being assailed itself reveals that petitioner No.1 Narinder Singh suffered a heart problem and got himself examined from Dhillon MRI Scan Centre on 22.05.2012. The fact that was corroborated by copy of MRI Scan Report Ex.A1 dated 22.05.2012. Even if, the petitioners have been remiss or a bit negligent in pursuing their cause, the fact remains that delay of 9 days in filing the appeal, was not so gross and inordinate which could deprive the petitioners

a remedy of appeal altogether.

Be that as it may, the revision petition is accepted and the order dated 31.05.2013, is set aside. The delay of 9 days in filing the appeal before the Appellate Authority is condoned to avert any miscarriage of justice. And the matter is remitted to the Appellate Authority for decision of appeal on merits.

Parties are directed to appear before the Appellate Authority on 22.09.2015, for decision of the appeal on merits.

September 07, 2015

Manoj Bhutani

**(ARUN PALLI)
JUDGE**