

209-3

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

CR No.5614 of 2013 (O&M)

Date of decision: May 12, 2015

Rajesh Kumar and others

.....Petitioners

Versus

Sarabjit Singh @ Manmohan Singh

.....Respondent

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Gaurav Singla, Advocate
for the petitioners.

SABINA, J

Petitioners have filed this petition challenging the order dated 06.03.2013, whereby application moved by the petitioners for condonation of delay in filing the appeal, was dismissed.

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

Petitioners had filed suit for declaration challenging the sale-deed executed by their father Babu Ram in favour of defendant No.2. Suit filed by the petitioners was dismissed by the trial Court vide judgment/decreed dated 15.06.2012. The learned trial Court held that the petitioners had failed to establish that the suit property was coparcenary in nature and further failed to establish that no sale consideration had been paid to Babu Ram at the time of execution of the sale-deed in question. It has been noticed by the First Appellate Court while dismissing the application seeking condonation of

delay in filing the appeal that the counsel for the petitioners had applied for certified copies of the judgment/decreed passed by the trial Court on 02.07.2012. The certified copies were delivered on 04.07.2012, whereas the appeal was filed on 19.12.2012. The case of the petitioners was that, although, they had paid the necessary fee to their counsel to file the appeal, but he had failed to do so. Admittedly, petitioners have not moved the Bar Council for taking appropriate action against the counsel, who had failed to file the appeal despite receipt of fee. In these circumstances, the learned First Appellate Court rightly came to the conclusion that the ground taken by the petitioners seeking condonation of delay in filing the appeal, was an afterthought and was not believable. Since the delay in filing the appeal could not be said to be bonafide or unintentional, the application moved by the petitioner seeking condonation of delay in filing the appeal, was liable to be dismissed.

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

Dismissed.

**(SABINA)
JUDGE**

May 12, 2015

m.singh