

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

CR No. 5887 of 2014
Date of decision: 1.9.2015

KrishnaPetitioner.

versus

Ajay Mahajan and anotherRespondents.

CORAM: - HON'BLE MR. JUSTICE ARUN PALLI

Present: - Mr. Narinder Kumar Vadehra, Advocate for the petitioner.

Mr. T.N. Gupta, Advocate for respondent No. 1.

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Arun Palli, J (Oral)

Vide order being assailed, dated 11.7.2014 (Annexure P-4), rendered by Additional District Judge, Pathankot, delay that had occurred in filing the accompanying appeal by the plaintiff-respondents had since been condoned, the defendant-petitioner is before this Court.

The suit filed by the respondents-plaintiff was dismissed by the trial Court on 17.11.2009. Concededly, the appeal filed against the said decree on 24.12.2010 was barred by time and was, thus, accompanied by an application for condonation of delay. Notice of the said application was issued to the petitioner-defendant and she filed reply thereto on 24.8.2010. However, the appeal was dismissed in default on 19.7.2013. Subsequently, an application for restoration of the appeal was moved along with a separate application for condonation of delay in moving the said application and both these applications were granted by the first Appellate Court on 11.7.2014. However, vide the same order the first Appellate Court also allowed the application for condonation of delay of 357 days in filing the

appeal as well. The limited grievance that is being expressed by learned counsel for the petitioner is that the delay that had occurred in filing the appeal ought not to have been condoned without notice or affording an opportunity of hearing to the defendant.

During the course of hearing, a consensus emerged between the counsel for the parties that let an application be moved by the petitioner before the first Appellate Court itself to re-examine the question; whether there indeed existed any sufficient cause to condone the delay in filing the appeal, and the Appellate Court be directed to consider and decide the same within a specified time.

That being so, the revision petition is disposed of with the direction to the first Appellate Court that if the petitioner indeed moves any such application as indicated above, the same shall be considered and decided, in accordance with law, within a period of one month of its submission. Parties through their counsel are directed to appear before the first Appellate Court on 15.9.2015.

Needless to assert, that this order shall not constitute any expression of opinion on the merits of the case of either party.

(Arun Palli)
Judge

1.9.2015
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