

Civil Revision No.899 of 2015

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

Civil Revision No.899 of 2015

Date of decision:10.02.2015

M/s R.P. Woolen Mills

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. Swapanh Shaorey, Advocate,
for the petitioner.

Rakesh Kumar Jain, J. (Oral)

This revision petition is against the order dated 05.08.2014 passed by the lower Appellate Court, dismissing the application filed by the petitioner under Section 5 of the Limitation Act, 1963 (here-in-after referred to as the "Act") for condonation of delay of 419 days in filing the appeal.

In brief, the suit was dismissed on 21.02.2011 and the certified copy of the judgment and decree was applied on 28.02.2011. The certified copy was prepared on 24.03.2011 and delivered on 25.03.2011, whereas the appeal was filed on 13.06.2012. There was a delay of 419 days for which an application under Section 5 of the Act was filed on the ground that there was an assurance given by respondent no.3 that the matter would be resolved without going in appeal.

The lower Appellate Court framed three issues on 02.11.2012 and allowed the parties to lead evidence to prove that there was a sufficient

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cause to condone the delay in filing the appeal. Except for the bald statement of the petitioner, no evidence has been brought on record to prove that some assurance was given by respondent no.3 for compromising the matter on account of which the appeal could not be filed within the period of limitation.

It is needless to mention that as per Article 116(b) of the Act, the limitation to file an appeal to any other Court from any decree or order is 30 days from the date of the decree or order. Under Section 96 of the Code of Civil Procedure, 1908, the first appeal is maintainable before the lower Appellate Court which should have been filed upto 25.04.2011 but the appeal has been filed on 13.06.2012, much after the expiry of the limitation period of 30 days.

In view of the fact that no sufficient cause has been given by the petitioner for not filing the appeal in time, the lower Appellate Court has rightly dismissed the application for condonation of delay and as a consequence thereof, the appeal has also been dismissed being not duly constituted.

Thus, I concur with the findings recorded by the lower Appellate Court and hence, the present revision petition is hereby dismissed being denuded of any merit.

February 10, 2015
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(Rakesh Kumar Jain)
Judge