

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

RSA NO. 2053 of 2012 (O&M)

DECIDED ON : 12.05.2015

Baldev Kaur

... Appellant

versus

Jawinder Kaur and others

... Respondents

CORAM : HON'BLE MR. JUSTICE K. C. PURI

Present : Mr. Tribhawan Singla, Advocate.

K. C. PURI, J.

CM No.5682 C of 2012

There is delay of 22 days in re-filing the appeal. The same stands allowed on the grounds mentioned in the application.

CM No.5684 C of 2012

2. There is delay of 967 days in filing the appeal. The grounds taken by the appellant is that Additional District Judge, Barnala dismissed the appeal on 12.03.2009 but the counsel for the appellant did not inform the appellant with regard to the dismissal of the above mentioned appeal and when the respondents who are close relatives of the appellant tries to interfere in the possession of the appellant in the month of September 2012 then the appellant came to know about the passing of the judgment and decree dated 12.03.2009.

3. There is delay of 967 days in filing the appeal. According to the case of the appellant-herself she has obtained the copy of the judgment and decree in the month of September 2011 and in spite of that appeal has been preferred on 6.2.2012. The judgment was pronounced on 12.03.2009. The grounds taken by the appellant that counsel for the appellant has not informed cannot be accepted. In case such pleas are entertained, in that case there would not be any end of the litigation. A litigant after so many years may say that her counsel has not informed.

4. No doubt, in the normal practice, delay in filing the appeal should be condoned but on the facts of the present case, no case for condonation of delay is made out. The appellants has not filed the appeal for years together. Sword of litigation cannot be kept hanging for years together. Otherwise also, from the perusal of the judgment of both the Courts below, it is revealed that appellant had failed in respect of the suit property upto to this Court in previous litigation. Plaintiff agitated in respect of property of Har Kaur, in previous suit which land was inherited by her from Bakhshish Singh. Now present suit has been filed regarding inheritance of Bakhshish Singh. Both the Courts below have rightly held that principles of order 2 rule 2 of the CPC is applicable.

5. So, in view of the above discussion, no ground for condonation of delay in the present case is made out. On merits also appellant has no case.

6. Consequently, the application under Section 5 of the Limitation Act is without any merit and the same stands dismissed.

7. Consequently the appeal is also dismissed being time barred and on merits.

8. A copy of this judgment be sent to the trial Court for strict compliance.

(K.C.PURI)
JUDGE

May 12, 2015
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No doubt, in the normal practice, delay in filing the appeal should be condoned but on the facts of the present case, no case for condonation of delay is made out. The appellants has not filed the appeal for years together. Sword of litigation cannot be kept hanging for years together. Otherwise also, from the perusal of the judgment of both the Courts below, it is revealed that appellant had failed in respect of the suit property upto to this Court. Previously plaintiff agitated in respect of property of Har Kaur, which was inherited by her from Bakhshish Singh. Now present suit has been filed regarding inheritance of Bakhshish Singh. Both the Courts below have rightly held that principles of order 2 rule 2 is applicable.

5. So, in view of the above discussion, no ground for condonation of delay in the present case is made out.

6. Consequently, the application under Section 5 of the Limitation Act is without any merit and the same stands dismissed.

7. Consequently the appeal is also dismissed being time barred.