

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

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Regular Second Appeal No.1036 of 2015 (O&M)

Date of Decision: October 20, 2015

Suresh

...Appellant

Versus

Smt. Sumitra Devi and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Sumit Sangwan, Advocate
for the applicant-appellant.

AUGUSTINE GEORGE MASIH, J. (ORAL)

CM No.3085-C of 2015

Prayer in this application is for condonation of delay of 19 days
in re-filing the appeal.

For the reasons mentioned in the application, which is duly
supported by the affidavit of the Clerk of the counsel, the present
application is allowed.

Delay of 19 days in re-filing the appeal stands condoned.

CM No.3086-C of 2015

Prayer in this application is for condonation of delay of 2527
days in filing the appeal.

The reason assigned for non-filing of the appeal within the
limitation prescribed is that the applicant-appellant was informed by the
General Power of Attorney holder of Ramji Lal i.e. Jaibir son of Ramji Lal,
one of the co-plaintiffs, that he would be filing an appeal in the High Court
and had also taken his signatures on the power of attorney. After that, said
Jaibir informed the applicant-appellant that the appeal is pending in the
High Court. The appeal, as a matter of fact, was withdrawn on 17.08.2012.

The withdrawal of the appeal was not intimated to the applicant-appellant and this fact came to his notice only in the first week of April, 2014. Thereafter he collected the papers, certified copies of the judgment and decree and other relevant documents and engaged a counsel, who prepared the present appeal and filed the same, which has resulted in the delay of 2527 days in filing the appeal.

The grounds, which have been stated in the application for condonation of the delay, cannot be accepted as there is nothing which would indicate that the applicant-appellant could not file his appeal. The appeal could have been filed by the applicant-appellant as it is his own independent statutory right and the filing of an appeal by a co-plaintiff would not be an appeal on behalf of other plaintiffs.

There is an inordinate and unexplained delay in filing the present appeal, which cannot be accepted as there is no cogent and justifiable explanation.

The application, therefore, stands, dismissed.

RSA No.1036 of 2015

The appeal stands dismissed as time barred.

In the light of the dismissal of the appeal, the application for leading additional evidence i.e. CM No.3087-C of 2015 and application for stay i.e. CM No.3088-C of 2015, stand disposed of as infructuous.

October 20, 2015
Puneet

(AUGUSTINE GEORGE MASIH)
JUDGE