

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

**RSA No. 2998 of 2015 (O&M)  
DECIDED ON: OCTOBER 19, 2015**

**KESHO**

**.....APPELLANT**

**VERSUS**

**RAMESH**

**.....RESPONDENTS**

**CORAM: HON'BLE MR. JUSTICE JASPAL SINGH**

- 1. Whether the Reporters of the Local papers may be allowed to see the judgment?**
- 2. To be referred to the Reporters or?**
- 3. Whether the judgment should be reported in the digest?**

Present:- Mr. Rajinder Singh Rana, Advocate  
for the appellant.

**JASPAL SINGH, J**

**CM No. 7172-C of 2015**

In view of averments made in the application, the same is allowed and delay in refilling the instant appeal is condoned.

CM stands disposed of.

**CM No. 7173-C of 2015**

Learned counsel for the applicant submits that deficiency of court fee has been made good.

CM is allowed, as prayed for.

**C.M No. 7174-C of 2015**

By virtue of this order this Court shall dispose of an application under Section 5 of the Limitation Act (for Brevity Act) for condonation of

delay of 1065 days in filing the accompanying appeal bearing RSA No. 2998 of 2015.

2. The contention of learned counsel for the applicant is that delay in filing the appeal is neither intentional nor willful but has occurred due to the reason that after dismissal of appeal by the lower Appellate Court respondent approached the applicant-appellant for compromise, which was amicably settled but after some time respondent back track from the said compromise. Thereafter he preferred an execution application when the notice in respect of filing of execution application by the respondent was received, instant appeal was filed without any further delay. Even otherwise the applicant-appellant is entitled to the condonation of delay as well as to be heard on merits on equity.

3. This Court has given an anxious thought to the aforesaid submissions made by learned counsel for the applicant-appellant but finding the same to be without any substance.

4. By now, it is pretty settled that an appeal or any other petition when becomes barred by time, right accrues other party and such a right cannot be scuttled down by the Court merely on an application which otherwise lacks *bona fide* and does not disclose any sufficient cause for condonation of delay. The decisive factor in condonation of delay, is not the length of delay, but sufficiency of a satisfactory explanation. Therefore an explanation as a sufficient cause is to be considered with pragmatism in justice oriented approach rather than the technical definition of sufficient cause. Each case depends upon its facts and circumstances and an explanation furnished with regard to delay. Hon'ble Apex Court in

*P.K.Ramachandran v. State of Kerala; JT 1997 (8) SC 189;* categorically observed that law of limitation made hardly effect a particular party but it has to be applied with all its rigour when the statute so prescribe and the Courts have no power to extend the period of limitation on equitable grounds. Meaning thereby, provisions relating to limitation cannot be so liberally construed so as to frustrate the very purpose of the said provisions.

5. It is also equally settled that even after sufficient cause has been shown, a party is not entitled to condonation of delay as a matter of right. The proof of sufficient cause is a condition precedent for the exercise of discretionary jurisdiction vested in the Courts. This aspect is suggestive of the fact that while considering an application for condonation of delay, the diligence of the party or its bona fides must fall for consideration.

6. Adverting to the facts of the case in hand, the only ground for condonation of delay of 1065 days in filing the instant appeal unfolded by the applicant/appellant is that after passing of decree by learned lower Appellate Court, respondent approached the applicant/appellant and a compromise was arrived at between the parties. Subsequently, he is stated to have resiled therefrom but this explanation does not find support from any other documentary evidence. If the respondent is clothed with a decree passed by the learned trial Court which has been affirmed by lower Appellate Court, there is no question of having approached the applicant/appellant by him for any compromise. If at all, the applicant/appellant could be termed to be the aggrieved person and should have approached the respondent. Thus, the story propounded by applicant/appellant for condonation of delay is nothing but appears to have

been concocted just to make out a ground for filing application and appeal. Thus, it can be said without any hesitation that there is no explanation what to say any plausible explanation for condonation of delay of an in-ordinate period of 1065 days.

7. As far as, the submission of learned counsel for the applicant/appellant that on equity basis also, the applicant/appellant is entitled to the condonation of delay is concerned, it also does not carry any legal weight. Equity and law though considered to be twin brothers yet should be applied and interpreted equitably but equity has no overriding effect on the statute or the settled law. Otherwise also consideration of equity cannot prevail and do not permit a Court to pass an order contrary to the law. In this context the reference of pronouncement of Hon'ble Apex Court captioned as *Ranghunath Rai Bareja and others v. Punjab National Bank; JJT 2007 (1) SC 542*; can be had.

8. In the light of what has been discussed above, this Court does not find any merit in the instant application seeking condonation of delay. As such the same is dismissed.

**RSA No. 2998 of 2015**

In view of dismissal of application seeking condonation of delay of 1065 days in filing the instant appeal vide order of even date passed by this Court, the accompanying appeal also stands dismissed.

Dismissed.

**(JASPAL SINGH)**  
**JUDGE**

**OCTOBER 19, 2015**  
**sham**