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

**RSA No.4103 of 2015 (O&M)
Date of Decision: September 17, 2015**

**Vijay Kumar Shinghania (deceased)
through LRs and another .... Appellants**

vs.

Bank of India .... Respondent

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. Vivek Salathia, Advocate for the appellants.

Mr. Ranjan Lohan, Advocate for the respondent.

1.Whether Reporters of Local Newspapers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Kuldip Singh J.(Oral)

Impugned in the present regular second appeal is the order dated 08.12.1992 passed by learned Sub Judge Ist Class, Amritsar, vide which the suit of the plaintiff was decreed for ₹1,39,426.81/-. Also challenged is the judgment and decree dated 12.10.1995 passed by learned Addl. District Judge, Amritsar, dismissing the appeal and affirming the findings of the lower court.

Along with the present appeal, an application under Section 5 of the Limitation Act for condonation of delay of 7162 days in filing the present appeal has also been filed.

Learned counsel for the appellants contends that the loan was taken by Vijay Kumar Shinghania, who is now dead and has been succeeded by the present appellant. It is further contended that several loans were raised by Vijay Kumar Shinghania and all of them except the present have been repaid. Even in the present case, the decretal amount was ₹1,39,421.81/- and more than ₹7,00,000/- have been paid in compliance with the directions issued by this Court in the civil revision against the execution proceedings. However, on account of the fact that the interest was granted with quarterly rests, the amount has now come to around ₹35 to 40 lac.

The only residential house of the present appellant is being sold. Therefore, the prayer is made for granting concession in awarding the interest at quarterly rests part decreed by both the courts below.

I am of the view that it was a mortgage suit and the rate of interest is agreed between the parties and cannot be interfered by this Court in regular second appeal when both the courts below have recorded the findings of facts. In the mortgage suit, only agreed rate of interest has been allowed. Therefore, there is nothing illegal in the same.

Moreover, there is unexplained delay of 7162 days in filing the present appeal, which comes around 19 years. Such huge delay cannot be condoned, particularly, when the appellant was aware about the decree and the execution was being pursued by the respondent-bank.

It being so, the application for condonation of delay is dismissed. Consequently, the appeal also stands dismissed being time barred and also on merits.

(KULDIP SINGH)
JUDGE

September 17, 2015
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