

RSA No.3801 of 2014 (O&M)

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

RSA No.3801 of 2014 (O&M)

Date of Decision: October 12, 2015

Ram Jiwan

...Appellant

Versus

Ramdhan and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Sanjeev Kumar Panwar, Advocate
for the appellant.

AUGUSTINE GEORGE MASIH, J. (Oral):

RSA No.3801 of 2014 with
CM No.8842-C of 2014

Prayer in CM No.8842-C of 2014 is for condonation of
delay of 420 days in filing the appeal.

The reason assigned is that the counsel for the applicant-
appellant did not inform him about the decision of the first appeal and
when he enquired about the fate of his appeal, only then he came to
know that the same was dismissed on 05.02.2013. After that, he
engaged a counsel in the High Court after obtaining certified copies
and the present appeal has been filed which has resulted in the delay
of 420 days in filing the same.

The grounds mentioned in the application for condonation
of delay of 420 days cannot be accepted as just and reasonable

explanation which would entitle the applicant-appellant the benefit of condonation of delay of 420 days as the same may not be deliberate but the applicant-appellant has not been vigilant enough with regard to his rights and duties. Merely because his counsel had not informed about the dismissal of the appeal, cannot be a ground for condoning the unexplained long delay of 420 days in filing the appeal when no dates have been mentioned in the application about the various steps taken by him in the process of filing the appeal. The application, therefore, deserve dismissal.

I have heard the counsel for the appellant on merits as well and do not find it to be a fit case where interference is called for in the concurrent findings recorded by the courts below especially when no question of law arises for consideration of this Court.

The appellant-plaintiff had filed the suit for permanent injunction restraining the respondent-defendants from interfering in the ownership and possession of the residential house marked as ABCDEF and GHIJ in the site plan and the boundaries of the property were also shown therein. Unfortunately, he has not been able to produce any documentary evidence showing that he was the owner of the property. Even the Draftsman who had prepared the site plan (Ex.P-1), has not been examined in the Court, while respondent-defendants have placed on record the site plan (Ex.D-1) which has been duly proved by Sh. R.K. Sharma-Draftsman (DW-2)

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who had prepared the same. The evidence which has been brought on record clearly establishes that the parties are in the exclusive possession of their respective share as per the partition which has been given effect to between them.

In view of the above, the appeal is dismissed both on the grounds of being barred by limitation as also on merits.

CM No.8843-C of 2014

In view of the order passed in the main appeal, the prayer made in the present application cannot be granted and the same stands dismissed.

October 12, 2015

Harish

**(AUGUSTINE GEORGE MASIH)
JUDGE**