

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

R.S.A NO. 40 OF 2014 (O&M)

DECIDED ON : 09.04.2015

Sukhwinder Singh

...Appellant

versus

Jagdish Singh and others

...Respondents

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

Present : Mr. Paramjit Rajput, Advocate.

K. C. PURI, J. (ORAL)

The defendant/appellant has directed this appeal against the judgment and decree dated 28.03.2001 passed by Shri Virender Kumar, Additional District Judge, Amritsar, vide which the appeal preferred by the defendant/appellants against the judgment and decree dated 05.09.2000 passed by Shri Nirmal Singh, Civil Judge (Junior Division), Tarn Taran, was dismissed.

Briefly stated, Jagdish Singh filed a suit for permanent injunction in respect of suit property and that suit was decreed vide judgment and decree dated 05.09.2000 passed by Civil Judge (Junior Division), Tarn Taran.

Feeling dissatisfied with the above said judgment and decree dated 05.09.2000, the defendant/appellants preferred first appeal. The said appeal was dismissed vide judgment and decree dated 28.03.2001 passed by Additional District Judge, Amritsar.

Both the above said judgments and decrees dated 05.09.2000 and 28.03.2001 respectively, have been challenged in the instant regular second appeal.

Along with the main appeal, an application bearing No.115-C of 2014 has also been filed for condonation of delay of 4537 days in filing the appeal.

It is pleaded in the application that counsel for the appellant did not inform the present appellant about the fate of the case decided by Additional District Judge, Amritsar and the appellant came to know about the impugned judgment and decree dated 28.03.2001 when respondent No.1 came to the suit land for seeking possession of the same by virtue of warrants of possession issued in favour of respondent No.1. It is further submitted that the delay is neither wilful nor intentional.

The question which now arises is whether the delay of 4537 days can be condoned on the facts of the case. The plaintiff has filed mere suit for injunction which has been decreed. The appeal directed by the defendant/appellants was dismissed. The only reasoning given by the appellant is that his counsel did not inform him about the decision of the case. No doubt the court should be

liberal in condoning the delay but where there is delay of more than 12-½ years, in that case, the delay cannot be condoned in a casual manner. The suit was merely a suit for injunction. It cannot be believed that the counsel for the appellant has not informed the defendant/appellant.

No other plea has been taken by the appellant. In case such type of applications are entertained, in that case, there will not be ever an end to the litigation. A party after years together may take the plea that the counsel has not informed him. It is a settled law that the parties should be vigilant. It cannot be believed that after filing the appeal in the year 2001, the appellant did not consult his counsel for more than 12 years.

In these circumstances, the application for condonation of delay is without any merit and the same stands dismissed.

Since the application has been dismissed, consequently, the appeal also stands dismissed.

APRIL 09, 2015
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(K. C. PURI)
JUDGE