

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

**Civil Revision No.2656 of 2016**

**Date of decision : 12.04.2016**

**Sobha Ram (now deceased) through his LRs and others**

.....Petitioners

*Versus*

**Molu and others**

...Respondents

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

- 1. Whether Reporters of the local papers may be allowed to see the judgment ? Yes*
- 2. To be referred to the Reporters or not ? Yes*
- 3. Whether the judgment should be reported in the Digest? Yes*

Present: Mr. Mahavir Sandhu, Advocate for petitioners.

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**DARSHAN SINGH, J.**

The present revision petition has been preferred against the order dated 17.03.2016, passed by the learned Additional District Judge, Yamunanagar at Jagadhri in Civil Appeal No.125 of 2012 titled as Nar Singh and others Vs. Molu and others, whereby the application filed by the petitioners-appellants under Section 5 of the Limitation Act for condonation of delay has been dismissed and accordingly the appeal filed by them against the judgment and decree dated 21.01.2010 passed by the learned Civil Judge (Junior Division), Yamunanagar at Jagadhri in Civil

Suit No.1179 of 2001 was also dismissed.

2. I have heard learned counsel for the petitioners and meticulously gone through the paper-book.

3. Learned counsel for the petitioners contended that the delay in filing the appeal has occurred because the counsel for the petitioners-appellants in the trial Court had not conveyed the correct decision of the suit. The suit filed by the appellants-plaintiffs was only partly decreed. Their relief for declaration was declined. However, they were granted the relief of permanent injunction. He contended that the petitioners only came to know about the correct position when respondents came to the spot and started negotiations to alienate the suit land. On enquiry made by the petitioners, they told that they are owners of the land and have every right to alienate the same by virtue of the judgment and decree dated 21.01.2010.

4. Learned counsel for the petitioners contended that the law is very liberal with respect to condonation of delay. He contended that the delay, which took place in filing the appeal in the instant case, was not deliberate or intentional on the part of the petitioners. The petitioners were not going to have any benefit by causing delay in filing of the appeal. He contended that when substantial justice and technical considerations are pitted against each other, cause of substantial justice deserves to be preferred. The claim of the parties should be decided on merits rather on technicalities. There is no presumption that delay is caused deliberately, or on account of culpable negligence, or on account

of *mala fides*. He contended that the “sufficient cause” should also be construed liberally. Thus, he contended that the learned first Appellate Court has wrongly dismissed the application moved by the petitioners for condoning the delay. To support his contentions, he relied upon cases ***Collector, Land Acquisition, Anantnag and another Vs. Mst. Katiji and others, AIR 1987 SC 1353*** and ***State of Haryana and others Vs. Om Parkash 2014(3) RCR (Civil) 912***.

5. I have duly considered the aforesaid contentions.

6. The petitioners have filed the suit for declaration that they are owner in possession of land in dispute. In the consequential relief, they sought the decree for permanent injunction restraining the defendants from interfering in their peaceful possession over the suit land and also not to alienate any portion thereof till the decision of the suit. The said suit filed by the petitioners-plaintiffs was decided by the learned trial court vide judgment dated 21.01.2010. Their claim regarding declaration qua ownership was declined. The consequential relief of injunction, restraining the defendants from alienating the suit land was also declined. However, as the plaintiffs were in possession of the land in dispute since long, so they were granted the decree for permanent injunction restraining defendants from interfering in their possession over the suit land. However, the true owners were given the liberty to take the possession in due course of law. The appeal against the judgment and decree dated 21.01.2010 was filed by the petitioners with a delay of 730 days *i.e.* two years. The sufficient cause for this delay, as pleaded by the

petitioners in the application for condonation of delay, is that their counsel told them that the suit has been decided in their favour and if the respondents would file any appeal, in that appeal they should receive the summons and they should come to their counsel. It is alleged that their counsel had not revealed them the true facts. They only came to know when the respondents came to the spot and started negotiations for alienating the suit land. Then they engaged some other counsel and came to know about the judgment and decree dated 21.01.2010.

7. There is absolutely no dispute with the proposition of law that the expression “sufficient cause” has to be interpreted liberally. The Court should adopt the justice oriented approach. But at the same time, the expression “sufficient cause” deserves to be liberally interpreted only so long as the negligence, inaction or lack of *bona fide* cannot be imputed to the party concerned. It is settled legal proposition that law of limitation may harshly affect a particular party but it has to apply with all its rigour when the statute so prescribes. The Court has no power to extend the period of limitation on equitable grounds. To support this view reference can be made to case ***P.K. Ramachandra Vs. State of Kerala 1997(4) RCR (Civil) 242***. Similarly, in case ***Basawaraj and another Vs. Special Land Acquisition Officer 2014(1) RCR (Civil) 603***, the Hon’ble Supreme Court has laid down as under:-

*“12. It is a settled legal proposition that law of limitation may harshly affect a particular party but it has to be applied with all its rigour when the statute so prescribes. The Court has no power to extend the period of limitation on equitable grounds. “A result flowing from a statutory*

*provision is never an evil. A Court has no power to ignore that provision to relieve what it considers a distress resulting from its operation.” The statutory provision may cause hardship or inconvenience to a particular party but the Court has no choice but to enforce it giving full effect to the same. The legal maxim “dura lex sed lex” which means “the law is hard but it is the law”, stands attracted in such a situation. It has consistently been held that, “inconvenience is not” a decisive factor to be considered while interpreting a statute.”*

8. The statute of limitation is founded on public policy. Its aim is to secure peace in the community. An unlimited limitation would lead to sense of insecurity and uncertainty.

9. The Hon’ble Apex Court in case ***Basawaraj and another Vs. Special Land Acquisition Officer*** (supra), while dealing with the scope of “sufficient cause” has laid down as under:-

*“9. Sufficient cause is the cause for which defendant could not be blamed for his absence. The meaning of the word "sufficient" is "adequate" or "enough", inasmuch as may be necessary to answer the purpose intended. Therefore, the word "sufficient" embraces no more than that which provides a platitude, which when the act done suffices to accomplish the purpose intended in the facts and circumstances existing in a case, duly examined from the view point of a reasonable standard of a cautious man. In this context, "sufficient cause" means that the party should not have acted in a negligent manner or there was a want of bona fide on its part in view of the facts and circumstances of a case or it cannot be alleged that the party has "not acted diligently" or "remained inactive". However, the facts and circumstances of each case must afford sufficient ground to enable the Court concerned to exercise discretion for the reason that whenever the Court exercises discretion, it has to be exercised judiciously. The applicant must satisfy the Court that he was prevented by any “sufficient cause” from prosecuting his case, and unless a satisfactory explanation is furnished, the Court should not allow the application for condonation of delay.*

*The court has to examine whether the mistake is bona fide or was merely a device to cover an ulterior purpose. (See: **Manindra Land and Building Corporation Ltd. v. Bhootnath Banerjee & Ors.**, AIR 1964 SC 1336; **Lala Matadin v. A. Narayanan**, AIR 1970 SC 1953; **Parimal v. Veena @ Bharti** AIR 2011 SC 1150; and **Maniben Devraj Shah v. Municipal Corporation of Brihan Mumbai** AIR 2012 SC 1629.)”*

10. As per the ratio of law laid down by the Hon’ble Apex Court in this authority, sufficient cause is the cause for which the party concerned could not be blamed and that party should not have acted in negligent manner or there was a want of bona fide on his part. The Court has to examine whether the mistake is bona fide or was merely a device to cover an ulterior purpose.

11. In case **Balwant Singh (dead) Vs. Jagdish Singh and others 2010(3) RCR (Civil) 856**, the Hon’ble Apex Court has held the expression sufficient cause should receive a liberal construction so as to advance substantial justice, when the delay is not on account of any dilatory tactics, want of bona fides, deliberate inaction or negligence on the part of the appellant. In case **A.C. Govindaraj and others Vs. M. Krishnamoorthy and others 2015(3) RCR (Civil) 366**, again the Hon’ble Apex Court reiterated the legal position that when there is no negligence, inaction or want of bona fide imputable to the appellants, the delay should be condoned. The true test is to see whether the applicant has acted with due diligence. In case **Amalendu Kumar Bera and others Vs. The State of West Bengal 2013(2) RCR (Civil) 534**, the Hon’ble Apex Court has held that the delay in filing the appeal or revision cannot and

shall not be mechanically considered and in the absence of 'sufficient cause' delay shall not be condoned. In case of serious negligence, the delay should not be condoned. The Hon'ble Apex Court in case ***Tribhuvanshankar Vs. Amrutlal, 2014(1) RCR (Civil) 206***, has laid down that the fundamental policy behind the limitation is that if a person does not pursue his remedy within the stipulated time-frame, the right to sue gets extinguished.

12. There is long delay of two years in filing the present appeal by the petitioners. The plea taken by them to show sufficient cause for this long delay is that their counsel did not disclose the true facts about the result of the suit. It is very easy to put blame on the counsel representing a party to make out a case for claiming the relief. It does not appeal to the reasons that for two long years, the appellants could not know the correct decision of the case by the trial Court. The plea raised by the petitioners with respect to sufficient cause for claiming condonation of delay is quite vague. The learned first Appellate Court has categorically mentioned that the petitioners have not even filed an affidavit in support of the averments in the application.

13. As already mentioned, it is very easy to put the blame on the counsel in order to make out a case for condonation of delay, but this plea raised by the petitioners does not inspire any confidence. The petitioners were required to be vigilant towards their rights. The photocopy of the certified copy of the judgment dated 21.01.2010 available on record shows that the copy was applied on 23.12.2011. It

was delivered on the same day, but even then the appeal was filed on 29.02.2012 *i.e.* after more than two months of obtaining the certified copy of the judgment/decreed. It shows the conduct of the petitioners-appellants that they were culpable negligent and were not at all vigilant to their rights. It is their own case that they had engaged the new counsel and obtained the copy of the judgment. The delay of more than two months in filing the appeal after receiving the copy of the judgment, negates their plea that the delay had occurred as the correct decision of the Court was not communicated to them by their counsel. If there would have been so, the petitioners would not have wasted more than two months in filing the appeal after obtaining the certified copy of the impugned judgment and decree. Thus, the sufficient cause for condonation of delay pleaded by the petitioners is just a camouflage and even the wrong facts have been pleaded. In the application for condonation of delay filed on 29.02.2012, it has been alleged that they came to know about the judgment and decree dated 21.01.2010 only on the last week when the respondents came to the spot and started negotiations to sell the suit land. Meaning thereby, they came to know about the judgment and decree dated 21.01.2010 just one week prior to the filing of the application and after that, they engaged the new counsel. But the photocopy of the judgment dated 21.01.2010 placed on record shows that they have obtained the certificated copy of the judgment on 23.12.2011 *i.e.* more than two months prior to the filing of the application. The pleading of the wrong facts further dislodge the case of the petitioners in order to project sufficient cause for condonation of

long delay of two years in filing the appeal. There is no dispute with the proposition of law laid down in the cases relied upon by learned counsel for the petitioners. But in view of the facts of the present case discussed above, he cannot take the benefit of those cases.

14. Thus, keeping in view my aforesaid discussion, I have no reason to differ with the findings recorded by the learned first Appellate Court that the petitioners have not been able to establish the sufficient cause for condonation of the delay of 730 days in filing the present appeal. Thus, no fault can be found with the dismissal of the application for condonation of delay filed by the petitioners by the learned first Appellate Court and consequent dismissal of the appeal being time barred. Consequently, the impugned order does not call any interference by this Court.

15. Thus, the present revision petition is without any merits and the same is hereby dismissed.

**12.04.2016**

*sunil yadav*

**( DARSHAN SINGH )  
JUDGE**