

IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH

CR No.4621 of 2013 (O&M)  
Date of decision:03.05.2016

Ranjit Singh and others

... Petitioners

Vs.

Gurmail Singh and others

... Respondents

**CORAM: HON'BLE MR. JUSTICE AMIT RAWAL**

1. Whether reporters of local newspapers may be allowed to see judgment?
2. To be referred to reporters or not?
3. Whether the judgment should be reported in the Digest?

Present:- Ms. Gagan Sharma, Advocate, for  
Mr. Gagandeep Grewal, Advocate  
for the petitioners.

Mr. P.S.Brar, Advocate  
for respondents No.1 to 3.

**AMIT RAWAL J. (Oral)**

Petitioner-defendants are aggrieved of the dismissal of the appeal being barred by law of limitation.

Ms. Gagan Sharma, learned counsel appearing on behalf of the petitioner-defendants submits that civil suit was filed on 14.12.2001 seeking 2/3<sup>rd</sup> share in the suit. Though the defendants appeared before the trial Court on 04.01.2002 and the matter was referred before the Lok Adalat on 21.08.2004 but during the interregnum, a compromise dated 29.11.2003 (Ex.A1) was arrived at and produced at the time of seeking condonation of delay and

therefore, the absence of petitioner-defendants before the Court below was not intentional and willful as the respondent-plaintiffs had agreed for withdrawal of the suit. On acquiring knowledge of the ex parte judgment and decree, appeal was filed in the year 2011, thus, there was delay of three years and the petitioner-defendants were proceeded ex parte on 04.06.2005 and ex parte judgment and decree dated 13.10.2009 was passed granting more relief than the one sought for. In case, an opportunity is granted to argue the appeal on merits, no prejudice would be caused to the respondent-plaintiffs as the appeal can be heard and decided on merits and other party can be compensated in terms of costs which this Court deems it appropriate.

Mr. P.S.Brar, learned counsel appearing on behalf of the respondents No.1 to 3 submits that explanation given in the application seeking condonation of delay is lacking reasons. The petitioner-defendants had been most callous and lackadaisical in not contesting the suit as the compromise has not seen the light of day and it has not been admitted by the plaintiffs. No explanation has come forth in filing the appeal immediately after passing of the ex parte judgment and decree and therefore, rightly so, Lower Appellate Court declined the same.

I have heard learned counsel for the parties and appraised the paper book and of the view that facts noticed above have some substance as valuable right to the petitioner-defendants

to contest the appeal on merits have been taken away, for, there are certain facts, which are required to be brought to the notice of the Appellate Court vis-a-vis claim of the respondents.

Accordingly, in order to prevent miscarriage of justice and to render justice, I deem it appropriate to set aside the impugned order by allowing the application seeking condonation of delay subject to payment of costs of ₹30,000/-. On payment of aforesaid costs, the Lower Appellate Court shall decide the appeal on merits.

Accordingly, revision petition stands disposed of.

**(AMIT RAWAL)**  
**JUDGE**

**May 03, 2016**  
savita