

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

**CR No.5310 of 2015  
Date of decision:11.01.2016**

Surinder Verma

... Petitioner

Vs.

Santosh Singhal and another

... 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:- Mr. Sandeep Gupta, Advocate  
for the petitioner.

Mr. M.K.Singla, Advocate  
for the respondents.

**AMIT RAWAL J. (Oral)**

The petitioner-defendant is aggrieved of the order dated 8.7.2015, whereby, the appeal filed against the judgment and decree dated 21.10.2014 passed in the suit for ejectment has been dismissed on the ground of limitation, being barred by 105 days.

Mr. Sandeep Gupta, learned counsel for the petitioner submits that the delay had occurred for the reasons stated in the application that certified copy of the judgment and decree dated 21.10.2014 was applied on the same date which was prepared on 11.11.2014 and delivered on 12.11.2014. However, the certified copy of the order and documents were handed over to Sh. Jeevan Singh

Saini, Advocate, who was engaged to file the appeal, but the brief of the case was misplaced and in these circumstances, delay of 105 days has occurred.

Mr. M.K.Singla, learned counsel for the respondents submits that application was not supported by an affidavit of advocate and no sufficient reasons were given in seeking condonation of delay, thus, in these circumstances, application has been dismissed by the lower Appellate Court.

I have heard learned counsel for the parties and appraised the paper book.

The lower Appellate Court has dismissed the application summarily without framing any issues, therefore, no cause of action arose for the petitioner to prove the averments made in the application, in essence, by examining the Advocate, who had been engaged to file the appeal.

It is settled law that party should not suffer for the lapse of the counsel. In order to lend support to the aforesaid law, I rely upon the judgments of the Hon'ble Supreme Court in **Rafiz and another vs. Munshi Lal and another AIR 1981 SC 1400** and in **Himalayan Cooperative Group Housing Society vs. Balwan Singh 2015(7) SCC 373**.

Once the petitioner has not been given any liberty or chance to lead evidence in support of the application for condonation of delay, the lower Appellate Court should not have non-suited the

petitioner in hearing the appeal on merits instead of pondering upon the application, as the application is not wanting explanation of the reasonable causes in filing the appeal within a period of 90 days. In order to advance the justice and prevent the mis-carriage of justice, the appeal should be heard on merits, but subject to certain terms and conditions.

Accordingly, the impugned order dismissing the application seeking condonation of delay of 105 days, is hereby set aside subject to payment of costs of ₹10,000/-. It is made clear that the appeal shall be heard on merits on deposit of the aforementioned costs, which shall be condition precedent.

The revision petition stands disposed of.

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

**January 11, 2016**  
savita