

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

CR No.6523 of 2015

Date of decision: 03.02.2016

Sher Singh

..... Petitioner.

Versus

Dhola Singh and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr.Sandeep Jasuja, Advocate
for the petitioner.

DARSHAN SINGH, J. (Oral)

The present civil revision petition under Article 227 of the Constitution of India has been preferred against the order dated 01.04.2015 passed by the learned Addl. District Judge, Fazilka, vide which the application filed by the petitioner for condonation of delay has been dismissed.

2. The petitioner has filed a suit for seeking a decree of permanent injunction restraining the defendants-respondents from interfering into his peaceful and cultivating possession of the land measuring 16 K comprised of Rect. No. 40 Killa No. 1(8-0) 2 (8-0) Khewat No. 72 Khatoni No. 89 as per jamabandi for the year 2005-2006 situated in the area of village Ghurka,

Tehsil Fazilka. The said suit of the plaintiff was partly decreed by the learned trial Court. The defendants-respondents were restrained from causing any interference or dispossessing the plaintiff from the suit land detailed and described above except the land measuring 1K-10M comprising Rect. No. 40 Killa No.1-min, vide judgement and decree dated 26.03.2013.

3. Aggrieved with the aforesaid judgement, the petitioner-plaintiff preferred the appeal along with an application under Section 5 of the Limitation Act, 1963 (for short 'Act') for condonation of delay in filing the appeal. The said application has been dismissed by the learned Additional District Judge, Fazilka, vide impugned order dated 01.04.2015. Hence this revision petition.

4. I have heard Mr. Sandeep Jasuja, Advocate, learned counsel for the petitioner and have meticulously gone through the paper book.

5. Initiating the arguments, learned counsel for the petitioner contended that the petitioner could not file the appeal within time as the clerk of his counsel in the trial Court has wrongly told that the suit has been decreed in *toto*. Whereas, actually the suit was partly decreed. He contended that there was no deliberate or intentional delay on the part of the appellant to file the appeal. Learned trial Court has not afforded any opportunity to the petitioner to establish the sufficient cause for condonation of delay. No issues were

framed by the learned First Appellate Court nor any evidence of the petitioner was recorded while deciding the application for condonation of delay. Thus, he contended that the impugned order passed by the learned First Appellate Court is not sustainable in the eyes of law. To support his contentions he has relied upon cases **Rajinder Singh VS. Chairman, Uhbvn Ltd. & Others 2011(4) PLR 797** and **M. Yerrappa and others Vs. The Authorized Officer, Land Reforms Appellate Tribunal, Anantapur District 2011(4) ALT 81.**

6. I have duly considered the aforesaid contentions.

7. I do not find any substance in the contentions raised by learned counsel for the petitioner. The Hon'ble Apex Court in case **Basawaraj and another Vs. Special Land Acquisition Officer 2014(1) R.C.R (Civil) 603 (S.C)** 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**, 2011(2) R.C.R (Civil) 155, 2011(1) Recent Apex Judgments (R.A.J) 611 and **Maniben Devraj Shah v. Municipal Corporation of Brihan Mumbai**, AIR 2012 SC 1629.)

10. In **Arjun Singh v. Mohindra Kumar**, AIR 1964 SC 993 this Court explained the difference between a “good cause” and a “sufficient cause” and observed that every “sufficient cause” is a good cause and vice versa. However, if any difference exists it can only be that the requirement of good cause is complied with on a lesser degree of proof than that of “sufficient cause”.

11. The expression “sufficient cause” should be given a liberal interpretation to ensure that substantial justice is done, but only so long as negligence, inaction or lack of bona fides cannot be imputed to the party concerned, whether or not sufficient cause has been furnished, can be decided on the facts of a particular case and no straitjacket formula is possible. (Vide: **Madanlal v. Shyamlal**, 2002(2) R.C.R (Civil) 361 ; and **Ram Nath Sao @ Ram Nath Sahu & Ors. v. Gobardhan Sao & Ors.**, 2002(2) R.C.R (Civil) 337 SC 1201.)

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.

13. The Statute of Limitation is founded on public policy, its aim being to secure peace in the community, to suppress fraud and perjury, to quicken diligence and to prevent oppression. It seeks to bury all acts of the past which have not been agitated unexplainably and have from lapse of time become stale. According to Halsbury's Laws of England, Vol. 24, p. 181:

"330. Policy of Limitation Acts. The courts have expressed

at least three differing reasons supporting the existence of statutes of limitations namely, (1) that long dormant claims have more of cruelty than justice in them, (2) that a defendant might have lost the evidence to disprove a stale claim, and (3) that persons with good causes of actions should pursue them with reasonable diligence".

An unlimited limitation would lead to a sense of insecurity and uncertainty, and therefore, limitation prevents disturbance or deprivation of what may have been acquired in equity and justice by long enjoyment or what may have been lost by a party's own inaction, negligence' or laches."

In view of the aforesaid authoritative pronouncement of the Hon'ble Apex Court 'where a case is presented in the Court beyond the period of limitation prescribed under law the applicant is required to explain as to what was the "sufficient cause" which prevented him to approach the Court within the stipulated period of limitation.' The "sufficient cause" means an adequate and enough reason to explain the delay. Where it is found that the appellant was negligent and had not acted diligently or remained inactive, there cannot be a justifiable ground to condone the delay.

8. In the instant case, the only reason put-forward by the petitioner before the learned First Appellate Court for seeking condonation of delay was that the clerk of his counsel had informed him that the suit has been totally decreed, but he came to know the correct position when respondent claimed in the village that case has been decided in his favour and when he received the copy of the order passed by the S.D.M-cum-Collector, Fazilka dated 10.04.2014, on 27.06.2014. The civil suit was decided by the learned Civil

Judge (Jr. Division), Fazilka on 26.03.2013, whereas the appeal was presented/preferred by the petitioner on 24.07.2014 i.e. after about one year and four months. This fact is not disputed that the judgement dated 26.03.2013 was pronounced in the presence of counsel for the petitioner. So, it does not appeal to the reasons that the petitioner was not correctly conveyed the decision/judgement of the learned trial Court. The sufficient cause pleaded by the petitioner that clerk of his counsel wrongly informed him that the suit has been decreed in *toto* appears to be an afterthought. He has not mentioned on which date he was so conveyed by the clerk of his counsel. This plea appears to have been taken only to make out a ground to meet out the long delay in filing the appeal, which *prima facie* does not inspire any confidence. So, the petitioner has not been able to establish any “sufficient cause” for delay in presentation of the appeal.

9. The cases relied upon by learned counsel for the petitioner are quite distinguishable of facts. In **Rajinder Singh's case (Supra)**, there was delay of only 27 days in filing the appeal. In **M.Yerrapa and other's case (Supra)**, the Land Reforms Appellate Tribunal has condoned the delay of 1869 days in filing the appeal simply on the ground that authorized officer of the respondent was entrusted bundle of cases for filing the appeals. The said order passed by the Tribunal was set aside by the Hon'ble Andhra Pradesh High Court and the

matter was remanded to the Tribunal with a direction to given opportunity to both the parties to lead evidence in that regard. I fail to understand as to how this judgement will advance the case of the petitioner. In that judgement also the Hon'ble Andhra Pradesh High Court has laid down that the “sufficient case” means, which is beyond the control of the party invoking the aid of Section 5 of the Act.

10. The necessity to frame issue and recording the evidence may only arise where *prima facie* the matter is contentious. If, *prima facie*, the sufficient ground pleaded by the petitioner to condone a long delay does not appeal to the reasons, to my mind, there will be no necessity to waste the time of the Court in framing the issues and to record the evidence. In that case, the application for condonation of delay can be well decided on the basis of affidavits filed by the parties.

11. So, keeping in view my aforesaid discussion, the petitioner has failed to establish the “sufficient cause” for condonation of the long delay of about one and four months in filing the present appeal. So, the application for condonation of delay has been rightly dismissed by the learned First Appellate Court.

12. Thus, I do not find any illegality in the impugned order calling for any interference by this Court while exercising the supervisory powers under Article 227 of the

Constitution of India.

13. Resultantly, the present revision petition having, no merits, is hereby dismissed.

03.02.2016

S.khan

**(DARSHAN SINGH)
JUDGE**