

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

CR No.6928 of 2015
Date of decision : 26.02.2016

Poonam Goyal

...Petitioner

Versus

Ravinder Kumar

...Respondent

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. P.S. Dhaliwal, Advocate for the petitioner.

Mr. Tushar Sharma, Advocate for the respondent.

AMIT RAWAL, J. (Oral)

The petitioner-Judgment Debtor-defendant is aggrieved of the order dated 22.09.2015, whereby miscellaneous application filed under Section 5 of the Limitation Act seeking condonation of delay of 650 days challenging the judgment and decree dated 08.06.2010, has been dismissed.

Mr. Dhaliwal, learned counsel appearing on behalf of petitioner submits that passing of the judgment and decree against the petitioner-defendant was not informed by the counsel nor any inquiry was made on behalf of petitioner. On acquiring about the outcome of the suit, petitioner engaged the service of new counsel who advised to file appeal. In this

process, delay of 650 days has occurred. In support of his contention, he has relied upon judgment rendered by the Hon'ble Supreme Court in *Esha Bhattacharjee Versus Managing Committee of Raghunathpur Nafar Academy and others*, (2013) 12 Supreme Court Cases 649 and submits that limitation should not come in the way of the petitioner in case there is merit in the appeal. Decree is the outcome of the dispute vis-a-vis execution of the agreement to sell, whereby respondent-plaintiff had sought specific performance through the intervention of the Court.

Mr. Tushar Sharma, learned counsel appearing on behalf of respondent submits that though respondent-plaintiff has complied with the order of the trial Court in depositing the balance amount in the Court but could not be adjudicated, in essence, neither the sale deed has been executed nor consequential proceeding has been initiated. He further submits that no explanation, much less, reasonable explanation has come forth in seeking condonation of delay. The application has rightly been dismissed and prays for dismissal of the revision petition with exemplary costs.

I have heard learned counsel for the parties and appraised the paper book and of the view that no prejudice would be caused to the respondent in case respondent is compensated in terms of cost by condoning the delay of 650 days as both the parties would be at liberty to address issue before the lower Appellate Court vis-a-vis the merit and demerit of the matter instead of pondering upon the limitation aspect. Even otherwise, as per the principles culled out in *Esha Bhattacharjee Versus Managing Committee of Raghunathpur Nafar Academy and others*, (2013) 12 Supreme Court Cases 649, the petitioner should be afforded a chance to

assail the judgment and decree by filing first appeal as per Section 96 of the Code of Civil Procedure.

Accordingly, impugned order dated 22.09.2015 is set aside, subject to payment of cost of ₹25,000/- to be paid to the counsel for the respondent-plaintiff in the High Court.

Lower Appellate Court is directed to decide the appeal on merits, in essence, appeal is restored to its original number.

Parties through their counsel are directed to appear before the lower Appellate Court on 21.03.2016.

It is expected that lower Appellate Court shall decide the appeal as expeditiously as possible within a period of 4 months from the date of receipt of certified copy of this order.

26.02.2016

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**(AMIT RAWAL)
JUDGE**