

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Revision No.7134 of 2016

Date of Decision: October 24th, 2016

Smt.Jawantri Devi & others

...Petitioners

Versus

Bihari Lal & another

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

Present: Mr.Vineet Chaudhary, Advocate,
for the petitioners.

AMIT RAWAL, J. (Oral)

Petitioner-plaintiffs are aggrieved of the impugned order, whereby the application filed by the respondent-defendants seeking condonation of delay of 65 days in filing the appeal before the Lower Appellate Court against the judgment and decree dated 30.5.2013, whereby the suit of the petitioner-plaintiffs had been decreed, has been allowed and the delay has been condoned.

Mr.Vineet Chaudhary, learned counsel for the petitioner-plaintiffs submits that the respondent-defendants had been negligent and careless in the suit itself and did not lead any evidence. The filing of the appeal along with the application seeking condonation of delay of 65 days is nothing but lackadaisical approach and an attempt to delay the proceedings and keep the sword hanging on the head of the petitioner-plaintiffs. The Court ought not to have condoned the delay. Each and every day delay has not been explained, therefore, the application was liable to be dismissed.

I have heard the learned counsel for the petitioner-plaintiffs, appraised the paper book and of the view that since the Court below, i.e., the Lower Appellate Court, after noticing the judgment of the Hon'ble Supreme Court and the pleadings supported by an affidavit, condoned the delay of 65 days in filing the appeal, I am of the view that the delay as explained is conforming to the requirement of law laid down in **Esha Bhattacharjee Versus Managing Committee of Raghunathpur Nafar Academy and others, (2013) 12 Supreme Court Cases 649**. If at all, there is no evidence by the respondent-defendants, the petitioner-plaintiffs would have a right to urge before the Lower Appellate Court on merits in order to succeed, but not in the manner and mode as has been done.

For the foregoing reasons, no ground for interference in the impugned order is made out.

Revision petition stands dismissed.

October 24th, 2016
ramesh

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable:

Yes/No