

**CR-990-2016**

**1**

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

**Date of decision : 10.02.2016**

1.

**CR-990-2016**

Satya Parkash Prop. of M/s Chaudhary Manphool Singh Satya Parkash  
and another

... Petitioners

Versus

Ved Dewan and others

... Respondents

2.

**CR-995-2016**

Satya Parkash Prop. of M/s Chaudhary Manphool Singh Satya Parkash  
and another

... Petitioners

Versus

Rajpal and others

... Respondents

***CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL***

Present: Mr. Sachin Bhardwaj, Advocate,  
Mr. Deepanshu Jain, Advocate,  
Mr. Madhur Sharma, Advocate  
for the petitioners.

**REKHA MITTAL. J.(ORAL)**

By way of this order, I shall dispose of aforesaid petitions as  
common question of law and fact are involved for adjudication. However,  
the facts are taken from CR-990-2016.

The challenge has been laid to an order dated 21.11.2015 (Annexure P18), allowing an application for condonation of delay filed under Section 5 of the Limitation Act (in short 'the Act').

The sole submission made by counsel for the petitioners is that the Court in appeal was not competent to condone the delay by invoking its inherent power in the face of specific bar created under Section 5 of the Act. In support of his contention, he has relied upon judgment of Hon'ble the Supreme Court of India ***Damodaran Pillai and others Vs. South Indian Bank Ltd. (2005) 7 Supreme Court Cases 300.***

I have heard counsel for the petitioners, perused the records and find no merit in the petition.

Section 5 of the Act provides for extension of prescribed period in certain cases. A relevant extract from Section 5 germane to the present controversy, reads thus:-

*“5 Extension of prescribed period in certain cases. — Any appeal or any application, other than an application under any of the provisions of Order XXI of the Code of Civil Procedure, 1908 (5 of 1908), may be admitted after the prescribed period, if the appellant or the applicant satisfies the court that he had sufficient cause for not preferring the appeal or making the application within such period.”*

A plain reading of Section 5 of the Act would make it evident that the provisions of Section 5 cannot be invoked for seeking condonation of delay in filing an application under any of the provisions

of Order XXI of the Code of Civil Procedure. Nothing has been stated in the Section that this bar would also be applicable to an appeal filed against an order on an application under any of the provisions of Order XXI of the Code of Civil Procedure. Once the legislation in its wisdom has not extended that bar to an appeal arising out of the execution proceedings, there is no reason to add something to what has been envisaged under Section 5 of the Act to hold that application under Section 5 of the Act was either not maintainable or the Court has allowed condonation of delay by exercising its inherent power. The judgment relied upon by counsel for the petitioners has got no bearing on the facts of the case in hand, therefore, the petitioners cannot derive any advantage to their contention from the referred authority.

For the foregoing reasons, finding no merit, the petitions are dismissed in limine, with no order as to costs.

**(REKHA MITTAL)**  
**JUDGE**

**February 10, 2016.**  
*Davinder Kumar*