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

Sr. No.126

**Civil Revision No.1006 of 2017
DECIDED ON: February 13, 2017**

TARUN KUMAR

..PETITIONER

VERSUS

PUNJAB STATE POWER CORPORATION LIMITED AND ANR

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Surender Dhull, Advocate,
for the petitioner.

JASPAL SINGH, J.

Through the instant revision petition preferred under Article 227 of the Constitution of India, petitioner has sought the modification of order dated September 22, 2016, passed by learned Additional District Judge, Ludhiana to the extent whereby cost to the tune of ₹10,000/- has been imposed while allowing an application moved under Section 5 of the Limitation Act (for short 'Act') for condonation of delay in filing an appeal against the judgment & decree dated February 18, 2015 passed by the learned Civil Judge (Jr. Divn.), Ludhiana.

2. While assailing the impugned order dated September 22, 2016, it has been argued with vehemence by the learned counsel for the petitioner that although an application under Section 5 of the Act has been rightly allowed on the basis of the particular facts of the case. Yet imposition of a penalty/cost to the tune of ₹ 10,000/- while allowing an application under Section 5 of the Act is contrary to the findings recorded by the trial court. On the one hand, the court has come to the conclusion that delay has been caused on account of the fact that the counsel of the petitioner did not inform him about the decision of the case delivered by the trial court and on the other hand, exemplary costs have been imposed to the tune of ₹10,000/-. In fact, there has been no fault or omission on the part of the petitioner for causing any delay in filing an appeal.

3. This court has given an anxious thought to the aforesaid submissions made by learned counsel for the petitioner, but does not find any merit therein.

4. Undoubtedly, the judgment & decree was passed by the trial court on February 18, 2015, but an appeal was not preferred within the prescribed period of limitation, rather, there was an inordinate delay of 167 days in filing the appeal. On account of delay, a valuable right has accrued to the respondent/defendant. No doubt, the appellant/applicant is not going to be benefited by filing an appeal with delay. Yet the valuable right occurred to the other party is not to be scuttled away without any plausible reason/excuse. However if the circumstances so justify, the other party can be compensated in such circumstances by way of cost. Thus, in the case in hand, imposition of cost to the tune of ₹10,000/- is justifiable to compensate

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the other party. This court does not find any illegality or infirmity in the impugned order dated September 22, 2016.

5. Dismissed.

February 13, 2017
Ankur

(JASPAL SINGH)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No