

CR No. 1346 of 2017 (O&M)

**HIGH COURT FOR THE STATES OF PUNJAB & HARYANA
AT CHANDIGARH**

**CR No. 1346 of 2017 (O&M)
Date of decision: 22.2.2017**

Hardev Singh

...Petitioner

Versus

Ajaib Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Parveen Chauhan, Advocate
for the petitioner.

Mr. A.G.S.Dhillon, Advocate
for the respondents.

RAMESHWAR SINGH MALIK, J. (Oral)

Present revision petition is directed against the order dated 23.11.2016 (Annexure P-8) passed by learned Additional District Judge, whereby application of the defendant-respondent for condonation of delay in filing the miscellaneous appeal was allowed.

Heard learned counsel for the parties.

The basic fallacy in the submission made by learned counsel for the petitioner is that petitioner wants dismissal of appeal of the defendants-respondents only on the ground of delay. In the present case, appeal of the defendants-respondents is stated to be delayed by about five months, which cannot be said to be an inordinate long delay. Further, no prejudice, as such, is going to be caused to the petitioner if the appeal of the defendants-

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respondents is heard and decided on merits. Having said that, this Court feels no hesitation to conclude that learned Additional District Judge was well within his jurisdiction, while passing the impugned order and the same deserves to be upheld.

It is the settled proposition of law that every court of law must make an endeavour to decide the lis on its merits instead of technicality, including the delay, so as to do complete and substantial justice between the parties by effective adjudication of the dispute. Learned appellate court has assigned sound and cogent reasons in support of the impugned order, allowing application under Section 5 of the Limitation Act for condonation of delay in filing the appeal.

Learned counsel for the petitioner failed to point out any patent illegality or perversity in the impugned order, which may warrant interference at the hands of this Court, while exercising its revisional jurisdiction under Section 227 of the Constitutional of India. Under these circumstances, it can be safely concluded that learned Additional District Judge committed no error of law, while passing the impugned order and the same deserves to be upheld, for this reason as well.

A bare perusal of the impugned order would show that learned court below was conscious of the factual as well as legal aspect of the matter. The law laid down by Hon'ble Supreme Court as well as different High Courts on the issue of limitation has been rightly followed by learned Additional District Judge, while passing the impugned order. Delay was not found intentional on the part of the defendants, while filing civil miscellaneous appeal against the order passed by learned trial court, deciding application under Order 39 Rule 1 and 2 CPC. Suit of the petitioner

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is still pending. Neither the impugned order has been found suffering from any patent illegality or perversity, nor any prejudice has been caused to the petitioner by passing of the impugned order which deserves to be upheld, for this reason also.

No other argument was raised

Considering the peculiar facts and circumstances of the cases noted above, coupled with the reasons aforementioned, this Court is of the considered view that present revision petition is misconceived, bereft of merit and without any substance. Thus, it must fail. No case for interference has been made out.

Resultantly, with the abovesaid observations made, instant revision petition stands dismissed, however, with no order as to costs.

22.2.2017
AK Sharma

(RAMESHWAR SINGH MALIK)
JUDGE

Whether Speaking/reasoned : Yes/No
Whether Reportable : Yes/No