

HIGH COURT FOR THE STATES OF PUNJAB & HARYANA AT CHANDIGARH

CR No. 1656 of 2013(O&M)

Date of decision: 21.3.2017

Labh Kaur and others

...Petitioners

Versus

M/s Golden Forest India Ltd.

...Respondent

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Ms. Sonia G. Singh, Advocate
for the petitioners

Mr. Ashish Bansal, Advocate
for the respondent

RAMESHWAR SINGH MALIK , J. (Oral)

C.M. No. 6301-CII of 2013

Applicants-petitioners seek condonation of delay of 356 days in filing the revision petition.

Notice of the application was issued, however, no reply has been filed to the applicaiton.

After hearing learned counsel for the parties, present application is allowed for the reasons stated therein. Delay of 356 days in filing the revision petition is condoned.

C.M. stands disposed of.

CR No. 1656 of 2013

Present revision petition is directed against the order dated 20.12.2011 passed by the learned First Appellate Court whereby the application of the petitioners was dismissed under Order 9 Rule 2 of the Code of Civil Procedure and as a consequence thereof appeal was also dismissed being time barred.

Heard learned counsel for the parties.

It is a matter of record and not in dispute that appeal filed by the petitioners was not decided on merits but only on account of delay. Learned counsel for the petitioners has been found justified in contending that although the petitioners were not vigilant enough while pursuing their litigation, yet in the interest of justice the appeal filed by the petitioner ought to have been decided on merits instead of dismissing the same on account of delay alone.

It is the settled proposition of law that rules of procedure are meant for advancing the cause of justice. Every Court of law must make an endeavour to decide the case on merits instead of technicalities alone, including the delay. Every party to the litigation should be granted reasonable opportunity to put up its best case before the Court. Nobody should be forced to go home with the grievance that sufficient opportunity was not granted by the learned Court. While proceeding on the abovesaid settled principle of law, the learned Court would achieve twin objects namely:-

- (i) It will avoid multiplicity of litigations between the parties.
- (ii) The learned Court would be doing complete and substantial justice between the parties.

So far as the present case is concerned, the impugned order has been found patently illegal and the same cannot be sustained. The learned First Appellate Court ought to have granted more opportunity to the petitioners instead of dismissing the appeal on the ground of limitation alone. This was the reason that the learned counsel for the respondent could not raise any meaningful argument for opposing the present revision petition and rightly so, it being a matter of record. Having said that, this Court feels no hesitation to conclude that the learned Court below committed a serious error of law while passing the impugned order and the same can not be sustained in the eyes of law.

No other argument was raised

Considering the peculiar facts and circumstance of the case, noted above, coupled with the reasons aforementioned, this Court is of the concerned view that since impugned order has been found patentently illegal, the same cannot be sustained.

Accordingly, the impugned order is set aside. The case is remitted back to the learned First Appellate Court to decide the appeal on merits. Since the respondent has been served before this Court, both the parties are directed to appear before the learned First Appellate Court on 06.04.2017.

Since the matter has been pending for quite some long time, the First Appellate Court is directed to make an endeavour to decide the appeal on merits at an early date.

Resultantly, with the abovesaid observations made and directions issued, instant revision petition stands allowed, however, with no order as to costs.

21.3.2017
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(RAMESHWAR SINGH MALIK)
JUDGE

Whether Speaking/reasoned : Yes/No

Whether Reportable : Yes/No