

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

CR No.2257 of 2016

Date of decision : 12.10.2017

Municipal Corporation, Jalandhar and another

...Petitioners

Versus

Nirmal Singh and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL**

Present: Mr. H.K. Aurora, Advocate for the petitioners.

Mr. Kunal Mulwani, Advocate for respondent No.1.

Mr. S.C. Pathela, Advocate for Jalandhar Improvement Trust.

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**ANIL KSHETARPAL, J. (ORAL)**

The Municipal Corporation, Jalandhar is in revision petition against the order passed by the First Appellate Court dismissing the application for condonation of delay as well as the appeal.

The Municipal Corporation, Jalandhar had filed an application seeking condonation of delay of 114 days in filing the appeal. In the application, the relevant assertions made are extracted as under:-

*“2. That the order under appeal was passed on 26.10.2012 but the appellant/applicant was not aware about the same till 18.2.2013 when the copy was applied. The fact of the matter is that the appellant institution has multifarious functions and many branches for conducting the day to day and other proceedings etc. The building branch was dealing*

*with the present case and the dealing counsel did not inform the building branch regarding the passing of the aforesaid decree. The residents of the locality came to the office of Municipal Corporation Jalandhar and verbally informed about the passing of the present decree under appeal and then the area building inspector immediately enquired about the same from the Hon'ble Court and informed the MTP about the same who then directed the ATP to get the certified copy of the court order and the same was applied on 18.2.2013 and was prepared on 22.2.2013 and delivered on 27.2.2013. Thereafter orders were obtained for engagement of counsel for filing appeal and then the grounds of appeal etc. were prepared by the counsel but as per official procedure the same were to be vetted as per facts and record at the office level by the officials of Building Branch and Law Branch of Municipal Corporation Jalandhar before filing by the appellant. The vetting and verification which involves a lot of paper work and deliberation by branch officials took some time and the grounds of appeal etc. could only be ready for filing after signatures of the competent official of the appellant on 19.3.2013 and the same is being immediately filed. The delay in filing the present appeal is neither intentional nor deliberate but due to aforesaid genuine reasons beyond the control of the appellant and the delay found, if any, is liable to be condoned.”*

Learned First Appellate Court while deciding the application did not examine the reasons assigned by the Municipal Corporation and rather it went into totally different direction in as much as the Court examined it from the issue whether the Counsel had informed the Municipal Corporation or not. The Court observed that same counsel was appearing for

Municipal Corporation who had appeared for Municipal Corporation in the suit.

It is a positive case of the Municipal Corporation that before the trial Court, Sh. Brijesh Bakshi, Advocate was not engaged by them. He was appearing only for the Improvement Trust.

It has been repeatedly held by the Hon'ble Supreme Court that no one should be condemned unheard and the Court must make sincere efforts to decide the case on merits. The Municipal Corporation, Jalandhar is a local body which is for the service of the public at large.

Taking into consideration the facts available on the file and the order passed by the Court, the order under challenge is set aside. Delay in filing the appeal is condoned.

Learned First Appellate Court is requested to decide the case on merits after hearing both the parties.

Parties are directed to appear before the First Appellate Court on 01.11.2017 at 10:00 AM.

In view of the above, the revision petition is allowed.

**12.10.2017**

*Pawan*

**(ANIL KSHETARPAL)  
JUDGE**

**Whether speaking/reasoned:-                      Yes/No**

**Whether reportable:-                                  Yes/No**