

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

CR No. 5266 of 2015 (O&M)
Date of decision: 11.5.2017

Ajit Singh

...Petitioner

Versus

Joginder Singh Mann and another

...Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Ashish Aggarwal, Advocate
for the petitioner.

Mr. Rishu Mahajan, Advocate
for respondent No.1.

RAMESHWAR SINGH MALIK, J. (Oral)

Present revision petition filed under Article 227 of the Constitution of India, is directed against the order dated 11.4.2013 (Annexure P-3) passed by the learned trial court as well as order dated 21.4.2015 (Annexure P-4) of the learned first appellate court, whereby appeal of the petitioner was dismissed only on account of delay.

Heard learned counsel for the parties.

Since the appeal filed by the petitioner has not been decided on merits by the learned Additional District Judge but it has been dismissed on account of delay alone, this Court is of the considered opinion that the matter deserves to be remanded with a direction to the learned first appellate court to decide the appeal on merits. No doubt, petitioner was negligent in pursuing the litigation, but dismissal of his appeal only on account of delay would defeat the ends of justice. The learned first appellate court ought to have condoned the delay in filing the appeal and it should have been decided on merits.

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In view of the above and without expressing any opinion on the merits of case, including the order dated 11.4.2013 passed by the learned trial court, lest it should prejudice the rights of either of the parties, only appellate order dated 21.4.2015 (Annexure P-4) passed by the learned Additional District Judge, is hereby set aside. Application of the petitioner filed under Section 5 of the Limitation Act, seeking condonation of delay in filing the appeal, would stand allowed and delay is condoned.

Consequently, the learned first appellate court is directed to hear the appeal of the petitioner afresh and decide the same on merits, in accordance with law. Since the matter remained pending before this Court for about two years, the learned first appellate court is directed to decide the appeal 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.

11.5.2017
AK Sharma

(RAMESHWAR SINGH MALIK)
JUDGE

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