

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

**CR No.6592 of 2015**

**Date of decision:10.5.2017**

Gurmeet Singh

...Petitioner

**Versus**

Amarjit Kaur and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK**

**Present:** Mr.O.P.Hoshiarpuri, Advocate for the petitioner.  
Mr.Rajesh Bansal, Advocate for the respondents.

**RAMESHWAR SINGH MALIK, J. (Oral)**

Feeling aggrieved against the order dated 15.9.2015 (Annexure P-1) passed by the learned Additional District Judge, allowing the application under Section 5 of the Litigation Act, condoning the delay of 194 days in filing the first appeal by the respondents, plaintiff, who is respondent before the learned first appellate court, has approached this Court by way of present civil revision petition filed under Article 227 of the Constitution of India, for setting aside the impugned order.

Notice of motion was issued.

Heard learned counsel for the parties.

No doubt there was a delay of 194 days in filing the first appeal at the hands of the defendants-respondents. However, after hearing the learned counsel for the parties, the learned first appellate court found that delay was sufficiently explained and accordingly application for

condonation of delay was allowed subject to payment of Rs.5000/- to be paid by the appellants-applicants before the learned first appellate court to the respondent-plaintiff, who is petitioner herein. Finally, the only issue that needs consideration of this Court is: whether the first appeal filed by the respondents ought to have been dismissed on account of delay alone or the same ought to have been decided on merits after condoning the delay of 194 days.

Considering the totality of the facts and circumstances of the case, this Court is of the considered opinion that delay alone should not have been made a ground for dismissal of the first appeal. It is so said because every court of competent jurisdiction must make an endeavour to decide the lis between the parties on its merits and not on technicalities alone, including the delay. Since the learned first appellate court proceeded on a positive and constructive approach, while passing the impugned order, the same deserves to be upheld.

It is also pertinent to note here that no prejudice of any kind, whatsoever, has been caused to the petitioner by passing the impugned order by the learned first appellate Court. It is also pertinent to note here that learned Additional District Judge was conscious of the fact that respondent in the appeal ought to have been compensated by the appellants therein for filing the appeal after 194 days. This was the reason that a reasonable amount was ordered to be paid to the petitioner so as to compensate him.

Learned counsel for the petitioner could not point out any kind of prejudice that might have been caused to the petitioner by passing the impugned order by the learned first appellate court and rightly so, it being a

matter of record. Under these undisputed facts and circumstances of the case, it can be safely concluded that the learned Additional District Judge committed no error of law, while passing the impugned order and the same deserves to be upheld for this reason also.

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

Resultantly, with the above-said observations made, the present revision petition stands dismissed, however, with no order as to costs.

**10.5.2017****mks****(RAMESHWAR SINGH MALIK)****JUDGE****Whether reasoned? Yes****Whether reportable? No**