

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

133

CR No.6211 of 2017
Date of decision: 07.12.2017

Pawan Kumar Sharma

..... Petitioner

Versus

Girish Sharma and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Sapan Dhir, Advocate
for the petitioner.

Mr. Rajesh Lamba, Advocate
for the respondents.

ANIL KSHETARPAL, J. (ORAL)

Petitioner-Pawan Kumar Sharma is in revision petition against the order passed by learned First Appellate Court dated 24.04.2017 refusing to condone the delay of 675 days.

It is not in dispute that the petitioner was not a party to the suit which was decreed on 16.08.2013 under Order 12 Rule 6 of the Civil Procedure Code on the basis of admission of the claim of the plaintiffs by the defendants. Petitioner filed an application for leave to file an appeal along with the application for condonation of delay. It was pleaded by the petitioner that he came to know of the decree passed in the month of November, 2014.

In fact, the delay is of 86 days and not 675 days. It is not in dispute that the original decree passed on 16.08.2013, was later on amended

by the Court on 03.09.2014. The appeal filed by the petitioner was against the amended decree i.e. 03.09.2014. Hence, the delay comes to 86 days and not 675 days.

Taking into consideration that the petitioner was not a party and he had filed an affidavit asserting that he came to know of the decree in November, 2014, the approach of the learned First Appellate Court was clearly erroneous. The Court should always make an endeavour to allow the parties to contest the cases on merits rather than technicalities. This was the first appeal filed by the petitioner who was not party to the suit.

In view of the aforesaid facts, this Court is of the considered opinion that the delay of 86 days in filing the appeal deserves to be condoned. The order dated 24.04.2017 is set aside.

Revision petition is allowed.

Parties through their counsel are directed to appear before the learned First Appellate Court on 10.01.2018.

07.12.2017
Dinesh Bansal

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned Yes / No

Whether Reportable Yes / No