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

**Civil Revision No.7921 of 2014
Date of Decision: 03.07.2017**

MALKIT KAURPetitioner
Vs
LAKHVIR SINGH AND ORSRespondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present:None for the petitioner.

Mr. A.K. Walia, Advocate
for the respondents.

RAJ MOHAN SINGH, J. (Oral)

Notice of motion in the present petition was issued even in the absence of the parties on 16.03.2015. None appeared on behalf of the petitioner on 27.11.2015, 27.08.2016 and 19.10.2016. On 06.12.2016, following order was passed:-

"In this revision petition, petitioner has assailed order dated 03.02.2014 passed by District Judge, Bathinda dismissing the application under Section 5 of the Limitation Act for condonation of delay in filing the appeal.

Respondents-plaintiffs filed a Civil Suit No.14 dated 13.01.2001 for permanent injunction seeking to restrain the mother of the petitioner from closing the street. The said suit was decreed vide judgment and decree dated 01.03.2005. The said judgment and decree was not assailed by the petitioner or her mother at the relevant time.

Thereafter, Civil Suit No.527 of 2010 was filed by the petitioner. During pendency of said suit, factum of

judgment and decree dated 01.03.2005 was duly disclosed by the respondents being defendants in the suit (Exs.D4 and D5). One more suit i.e. Civil Suit No.528 of 2010 was also filed for permanent injunction which was also dismissed on 16.11.2012. In both the aforesaid civil suits filed by the petitioner, factum of judgment and decree dated 01.03.2005 was duly disclosed by the defendants.

Thereafter, appeal against judgment and decree dated 01.03.2005 came to be filed before the lower Appellate Court on 17.12.2012 which was barred by more than 7 years of delay. Lower Appellate Court has dismissed the application as well as the appeal being time barred against the judgment and decree dated 01.03.2005.

At this stage, learned counsel for the petitioner prays for time on the ground that arguing counsel is in personal difficulty.

Adjourned to 14.12.2016.”

On 14.12.2016, the case was adjourned By Order for 15.02.2017. On the adjourned date, none appeared on behalf of the petitioner and the case was adjourned for 16.05.2017. On 16.05.2017 also none appeared on behalf of the petitioner and the case was adjourned for today. Even, today none has appeared on behalf of the petitioner.

Perusal of the record reveals that the present petition has been filed against the order dated 03.02.2014 passed by the District Judge, Bhatinda dismissing the application under Section 5 of the Limitation Act for condonation of delay in filing the appeal. Plaintiffs-respondents filed a civil suit for permanent

injunction on 13.01.2001 seeking to restrain the mother of the petitioner from closing the street. The suit was decreed by the trial Court vide judgment and decree dated 01.03.2005 and the said judgment and decree attained finality as the same was not assailed by the petitioner or her mother at any point of time. Thereafter, Civil Suit No.527 of 2010 was filed by the petitioner. Factum of judgment and decree dated 01.03.2005 was not disclosed. The defendants disclosed the same in their written statement. One more Civil Suit No.528 of 2010 was also filed for permanent injunction which was also dismissed on 16.11.2012.

In both the aforesaid civil suits, factum of judgment and decree dated 01.03.2005 was concealed by the plaintiffs, rather the same was disclosed by the defendants. It was only thereafter an appeal against the judgment and decree dated 01.03.2005 came to be filed with a delay of more than seven years and the lower Appellate Court was pleased to dismiss the said application. That is how the present petition came to be filed.

In view of narration of facts given in the preceding para, I do not wish to interfere in the present petition. Consequently, the same is dismissed.

July 03, 2017

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**(RAJ MOHAN SINGH)
JUDGE**

Whether speaking/reasoned
Whether reportable

**Yes/No
Yes/No**