

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

Decided on 16.08.2017

1. RSA-4372-2009 (O&M)

Sukhwinder Kaur and others

....Appellant(s)

Versus

Markfed and others

....Respondent(s)

**2. CM Nos.992-94-C-2011 in/and
RSA-364-2011**

Sukhwinder Kaur and others

....Appellant(s)

Versus

FCI and others

....Respondent(s)

CORAM: HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. J.L. Malhotra, Advocate
for the appellant(s).

Mr. K.K. Gupta, Advocate
for respondent No.1 in RSA-364-2011
for respondent No.3 in RSA-4372-2009.

Mr. Deepak Sabharwal, Advocate
for respondents No.1 and 2 in RSA-4372-2009
for respondents No.2 and 3 in RSA-364-2011.

AJAY TEWARI, J.(ORAL)

CM Nos.992-94-C-2011

For the reasons recorded, the applications are allowed.

Delay of 11 days in re-filing the appeal is condoned. Deficiency
of Court fee is made good.

RSA Nos.4372-2009 & 364-2011

These two appeals have been filed against the judgments of the
lower Appellate Court whereby it allowed the appeals filed by the
defendants-respondents and consequently dismissed the suit filed by the

appellants. Since the issues are same both the appeals are decided by the appellants.

The appellants had filed a suit for recovery on the ground that Baljinder Singh was a contractor of the respondents and was in the process of doing some contract work when he died (on 28.02.1992) and the appellants being his legal representatives were entitled to the recovery of the amount. What primarily weighed by the lower Appellate Court in rejecting the claim was the fact that originally the appellants had filed an application to *sue in forma pauperis* on 28.02.1995 (which would be within limitation). However, that application was rejected on 08.12.1995 and ultimately the appellants filed the suit with the requisite Court fees only on 29.01.1996. It was in these circumstances that the Court held that the suit was beyond limitation.

Learned counsel for the appellants has not been able to show me as to how the findings of the lower Appellate Court is incorrect. Once the Court held that the suit *in forma pauperis* was meritless, that application would not have saved the limitation.

In these circumstances, no fault can be found with the judgments of the Lower Appellate Court and the appeals stand dismissed.

Since the main cases have been decided the pending civil miscellaneous application, if any, also stands disposed of.

August 16, 2017

ps-I

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No