

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CM No.2382-LPA of 2017 in/and
LPA No.1137 of 2017 (O&M)
Date of Decision:- 23.10.2017

Kiranjit Kaur and others

... Appellants

Versus

Union of India and others

... Respondents

**CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL
HON'BLE MR. JUSTICE GURVINDER SINGH GILL**

Present:- Mr. Vikas Bahl, Senior Advocate with
Ms. Shubreet K. Saron and Mr. Nitish Garg, Advocates,
for the applicants-appellants.

Rajesh Bindal, J.

Present intra-court appeal has been filed against judgment of learned Single Judge dated 29.10.2010 in CWP No.8796 of 1997 whereby the writ petition filed by the petitioners challenging order dated 7.1.1997 passed by the Commissioner, Ferozepur was dismissed. Along with the appeal application seeking condonation of delay of 2,335 days in filing the appeal, has also been filed.

Learned Senior counsel for the applicants submitted that the applicant No.1 is a widow, aged 65 years. Her 3 daughters are married and living in their matrimonial home. After the decision of the writ petition,

applicants-appellants had engaged counsel and appeal was filed on 2.7.2011 vide diary No.685962. However, the learned counsel, who was initially engaged to file appeal, was lateron elevated to the Bench. It was learnt that the appeal was returned by the Registry with certain objections and had not been re-filed thereafter. The applicant No.1 remained under the impression that the appeal having been filed, will be listed after number of years. She came to know about the factum of non-filing of appeal when she visited Mohali on 5.3.2017 to attend a religious ceremony at her sister's house. It was only thereafter that the present appeal was filed as the papers of the appeal earlier filed could not be traced, the applicants are not at fault. She remained under a *bona fide* belief that the appeal had been filed, which will be listed after number of years. The delay in filing the appeal may be condoned.

After hearing learned counsel for the applicants, we do not find that any ground to condone huge delay of 2,335 days in filing the appeal is made out. The writ petition along with three other cases were decided on 29.10.2010 as per the case set up by the applicants. Appeal was filed on 2.7.2011. Apparently even filing at that time was also delayed. Further plea taken by the applicants that they did not inquire about the status of the case for the last about 6 years after, according to her, it was filed, cannot be accepted as a litigant has to be remain vigilant after the case is filed. In fact the counsel had been engaged immediately after the decision of the writ petition. The appeal could have been filed immediately after the decision thereof. Even that was filed quite late as per the averments made in the application.

For the reasons mentioned above, no sufficient ground is made

out to condone huge delay of 2,335 days in filing the appeal. Hence, application for condonation of 2,335 days’ delay in filing the appeal is dismissed. Consequently, the appeal is also dismissed.

(Rajesh Bindal)
Judge

October 23, 2017
mohan

(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned	Yes / No
Whether Reportable	Yes / No