

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****Date of decision: 01.09.2017****RSA No.4517 of 2015 (O&M)**

M/s The Dayanand Anglo Vedic College Trust & Management Society

...Appellant

Vs.

Rattan Dai Khosla DAV School & others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Aman Chaudhary, Advocate, for the applicant/appellant.

RAJIV NARAIN RAINA, J. (ORAL)**CM No.10817-C of 2015**

Exemption application is allowed as prayed for.

CM No.10820-C of 2015

For the reasons stated in the application, the application is allowed and the delay of 52 days in re-filing the appeal is condoned.

CM No.10819-C of 2015 in/and
RSA No.4517 of 2015

I have carefully read the affidavit in support of the application under Section 5 of the Limitation Act, 1963 for condoning the huge delay of 214 days in presenting the appeal beyond the limitation prescribed for a second appeal with the assistance of Mr. Chaudhary in a dispute involving the management of the DAV Institutions at New Delhi and its local Managing Committee in Punjab pertaining to 33 square yards and 900 square yards of land where a proposed English Medium school was to be established till the parties broke out in a dispute with each other over

possession of the suit land. The affidavit though is rather long winded, but adds-up to nothing in terms of offering a satisfactory explanation and sufficient cause for the huge delay in filing the appeal.

On reading the contents of the application supported by affidavit, I do not find any justification given in terms of explaining the delay after the judgment was pronounced on 04.03.2014. It is explained that at one stage the Chief Legal Advisor of DAV had recommended that no useful purpose will be served in filing the appeal, which fact finds mention in the communication between the Managing Committee and its learned counsel at Chandigarh. It is said that thereafter a lot of time was spent in delivering papers for filing the appeal. The gaps in the processing of the case are as wide as to be hardly believed as sufficient cause for the belated approach.

Thus, I have no reason to accept the reasons given in the affidavit in support of the application and would, therefore, decline to entertain the same. As a result the application for condoning the delay of 214 days is dismissed and as a result so also the regular second appeal.

Nevertheless, the warring parties within the DAV institutional umbrella are advised to sort out their differences at their own level. It may be noted that in the suit, possession was sought and the lower Appellate Court has allowed the appeal, but decreed it only to the extent of symbolic possession of the disputed property finding inconclusive evidence to decide.

01.09.2017
Vimal

[RAJIV NARAIN RAINA]
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>
<i>Whether Reportable:</i>	<i>No</i>