

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

RSA No.6279 of 2016 (O&M)
Date of Decision:30.08.2017

Tarsem Kumar and another

...Appellants

Versus

Jagdish Kumar

...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Tribhawan Singla, Advocate
for the appellants.

Mr. Girish Agnihotri, Senior Advocate with
Mr. Rohit Mittal, Advocate
for the respondent.

ANIL KSHETARPAL, J. (ORAL)

CM-16477-C-2016

This is an application for condonation of delay of 762 days in filing the appeal.

Learned first Appellate Court passed the judgment and decree against the appellants on 02.08.2014.

It is pleaded in the application that appellants did not come to know of the judgment and decree as their counsel did not inform them. It is further asserted that the appellants came to know about the judgment and decree when they received summons from the Executing Court on 06.05.2016. Thereupon the appellants contacted their counsel in the trial Court but no satisfactory reply was given. They engaged another counsel for defending their case. The new counsel advised the appellants to file objection in the execution petition. The aforesaid objection petition was dismissed on 12.09.2016. The appellants claimed that thereafter they were advised to file the present appeal.

The aforesaid application has been contested by the respondents asserting that the appellants have failed to plead any sufficient cause for condoning huge delay of 762 days.

I have heard the learned counsel for the parties and with their able assistance gone through the application and the reply.

In my considered opinion, plaintiff has failed to show any sufficient cause for condoning the delay of 762 days in filing the appeal. Appellants were represented by a counsel in the trial Court as well as before the first Appellate Court. In the trial Court appellants were represented by Sh. Vinod Kumar Sharma, Advocate whereas before the first Appellate Court, the appellants were represented by Sh. V.K. Kaushal, Advocate.

Learned first Appellate Court dismissed the appeal filed by the appellants on 02.08.2014. The appellants received notice of the execution petition on 06.05.2016. It is the admitted position that the appellants engaged a new counsel in the execution petition. At this stage also, the appellants did not file any appeal but rather chose to file objections. The objections were also dismissed on 12.09.2016, whereas the present appeal was filed on 02.12.2016.

In view of facts stated above, I do not find sufficient ground to condone the delay of 762 days in filing the appeal. Application under Section 5 of the Limitation Act is dismissed.

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In view of dismissal of the application for condonation of delay, the appeal is also dismissed.

(ANIL KSHETARPAL)
JUDGE

30.08.2017
pvd

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No