

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

**R.S.A No. 6023 of 2015 (O&M)
Date of Decision:- 05.12.2017**

Sukhbir Singh

....Appellant

Versus

Haryana Agro Industries Corporation
Ltd. Palwal & Ors.

...Respondents

CORAM: HON'BLE MR.JUSTICE AVNEESH JHINGAN

Present: Mr. Keshav Partap Singh, Advocate, for the appellant.

Mr. Padamkant Dwivedi, Advocate, for respondent No.1.

Mr. Kamaldeep Kaur, Advocate, for
Mr. Adarsh Jain, Advocate, for respondent No.3.

AVNEESH JHINGAN, J. (Oral)

The present regular second appeal has been filed against the judgment and decree dated 06.08.2015, passed by learned Additional District Judge, Palwal. The appeal filed by defendant No.3 (in the original suit) was dismissed as time barred because the same was delayed by 117 days.

Learned counsel for the appellant argued that the sufficient cause was duly explained for the delay. The defendant No.3 was represented through a counsel but the counsel on few dates neither attended the Court nor informed the appellant. He was proceeded ex-parte. As a result he was not aware of the suit being decreed. On gaining knowledge that a decision has been taken against him, appeal was filed, in all these delay of 117 days, occurred.

Learned counsel for the respondent opposed the contention raised by the counsel for the appellant. He argued that the delay was not properly explained. In such circumstances, the delay cannot be condoned.

The delay is only of 117 days and it was duly explained before the appellate Court. The Hon'ble Apex Court has time and again held that a liberal approach should be adopted in condoning the delay. It has further been held that substantial justice should prevail when pitted against the technicalities.

Keeping in view the facts and circumstances of the case, the delay is condoned. The matter is remitted back to the appellate Court to decide the same on merits.

Parties are directed to appear before the appellate Court on 10.01.2018.

Till 10.01.2018, interim order passed by this Court will continue and the appellate Court thereafter would decide on the said issue. In case of non-appearance of the appellant on 10.01.2018 stay shall automatically stand vacated.

Regular Second Appeal is accordingly disposed of.

December 05, 2017
tripti

(AVNEESH JHINGAN)
JUDGE

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