

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA No.789 of 2017 (O&M)

Date of Decision: 22.08.2017

Managing Director, Haryana State Road
& Bridge Development Corporation,
Panchkula

... Appellant

Versus

Kamlesh Devi and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Ms. Sonia G.Singh, Advocate,
for Mr. B.S. Negi, Advocate,
for the appellant.

RAJIV NARAIN RAINA, J.(Oral)

A delay of 59 days in filing the appeal has been explained in the affidavit in support of the application under Section 5 of Limitation Act, 1963 in the following words:-

“2. That there is delay of 59 days in filing the appeal which is un intentional and bonafide and has occurred due to the reason that the certified copy of impugned judgment dated 30.05.2016 was applied on 19.07.2016, which was received on 27.07.2016, thereafter, letter dated 08.08.2016 was written by the Deputy General Manager-IV, HSRDC, PIU, Jhajjar for obtaining legal opinion and after receiving the same letter dated 09.08.2016 was written to the Executive Director, HSRDC, Panchkula for writing the advocate General Haryana for recommending the name of Advocate to file appeal in this Hon'ble Court and thereafter, letter dated 12.09.2016 was written by the Deputy General Manager-II, HSRDC, Panchkula to Advocate General Haryana for providing Advocate to file appeal and on 15.09.2016, the case was assigned to present counsel and immediately thereafter, the present appeal is being filed.”

This stock defence on the part of the agency of the Government

is unacceptable as explanation for sufficient cause for filing the appeal belatedly and explanation of this kind has been severely criticized by the Supreme Court in Office of the Chief Post Master General & ors. v. Living Media India Ltd. & Anr., 2012(2) S.C.T. 269 where their Lordships have observed as under :

“13. In our view, it is the right time to inform all the Government bodies, their agencies and instrumentalities that unless they have reasonable and acceptable explanation for the delay and there was bona fide effort, there is no need to accept the usual explanation that the file was kept pending for several months/years due to considerable degree of procedural red-tape in the process. The Government departments are under a special obligation to ensure that they perform their duties with diligence and commitment. Condonation of for Government departments. The law shelters everyone under the same light and should not be swirled for the benefit of a few. Considering the fact that there was no proper explanation offered by the Department for the delay except mentioning of various dates, according to us, the Department has miserably failed to give any acceptable and cogent reasons sufficient to condone such a huge delay. Accordingly, the appeals are liable to be dismissed on the ground of delay.”

In view of the above, the application for condonation of delay in filing the appeal as well as main appeal is dismissed.

(RAJIV NARAIN RAINA)
JUDGE

22.08.2017
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Whether speaking/reasoned *Yes/No*

Whether reportable *Yes/No*