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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CM(M) 230/2017 and CM Nos. 7543-44/2017

RATTAN KAUR

..... Petitioner

Through Mr.Dhan Mohan, Mr.Tonu Mishra
and Mr.Sarthak Maggon, Advocates.

versus

CHAND SINGH

..... Respondent

Through

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

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27.02.2017

1. By the present petition filed under Article 227 of the Constitution of India, the petitioner seeks to impugn the order dated 02.09.2015 by which an appeal filed by the petitioner against the decree of the trial court dated 25.04.2007 and the accompanying application under Section 5 of the Limitation Act were dismissed. There was a delay of 7 years and 4 months in filing of the appeal.

2. The appellate court has noted that the grounds stated for the delay are that the petitioner had engaged several lawyers but due to her old age, her memory has been lost and she could not explain everything properly. Noting the said ground but also noting the long time taken in filing of the appeal, the appellate court dismissed the application under Section 5 of the Limitation Act and consequently, the appeal of the petitioner

3. I have heard the learned counsel for the petitioner. He has submitted

that the petitioner is an uneducated lady and not even well conversant with Hindi or English. She understands only Punjabi. He reiterates that she has been taken for a ride by the respondent. He also reiterates that the advocates engaged by her had wrongly informed her that an appeal had been filed whereas actually what was being done, was perusal of application before the executing court.

4. I have seen the application filed by the petitioner under Section 5 of the Limitation Act. The only grounds given in the application are as follows:-

“6. That it is pertinent to mention here that the appellant has engaged lawyer, persuaded the case as per the guidance and legal advice of the then lawyer and persuaded without any delay.

7. That the respondent filed a civil suit in year 2005 for specific performance of agreement dated 16.06.1999 and the said suit was already time barred in itself, persuaded by the appellant diligently but despite of this fact the appellant lost the case before the trial court on 25.04.2007.

8. That not only this, the appellant has engaged several lawyers but due to her old age her memory has been lost and cannot explain everything till date. However, lastly she engaged Advocate Nishal Neel and Advocate Puspa Saini who asked the appellant that they had filed appeal against judgment dated 25.04.2007.

9. That it is further pertinent to mention here that the said lawyers continue to call the appellant in executing court Sh.Siddharth Malik (CJ) Delhi Room No. 25 Tis Hazari Delhi and stated that the appeal is pending before said court.

10. That not only this the said Advocate further file several application before the executing court and even they

accompanying to the appellant stating that there appeal will be decided by the executing court.

11. That not only this again a appeal has been filed vide MCA No. 1/15 titled as Ratan Kaur Versus Chand Singh before this Hon'ble Court and vide order dated 30.01.2015 this Hon'ble Court dismiss the appeal on 30.01.2015.

12. That from aforesaid fact it is clear that the appellant is continuing perusing the matter as guided by the lawyer till 2007 to 30.01.2015 and from the perusal of the records of the court shows that the appellant is a victim of wrong legal advice.”

5. Essentially, an attempt is made to blame the advocates for having not filed the appeal. It may be true that the petitioner being uneducated would have probably relied upon only on the advocate for their advice. However, it is not possible to condone a delay of eight years in filing the appeal on the grounds stated as above.

6. I see no reason to interfere with the order of the appellate court. In view of the above, the present petition is dismissed.

7. All pending applications also stand dismissed.

JAYANT NATH, J

FEBRUARY 27, 2017

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