

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

CR No.4232 of 2013 (O&M)
Date of decision : March 12, 2018

Municipal Corporation, Amritsar Petitioner

Versus

General Public and others Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Anil Kumar Sharma, Advocate for the petitioner.

Mr. M.S. Dhillon, DAG, Punjab.

Mr. Sarabjit Singh, Advocate for respondent Nos.4 to 7.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

KULDIP SINGH J. (ORAL)

Impugned in the present revision petition is the order dated 20.03.2013 (Annexure P-2) passed by learned District Judge, Amritsar, vide which the appeal filed by the Municipal Corporation, Amritsar against the judgment and decree dated 18.01.2011 (Annexure P-1) passed by learned Civil Judge (Jr. Divn.), Amritsar, was dismissed being time barred after refusing to condone the delay of 120 days in filing the appeal.

Heard.

It comes out that in the application filed under Section 5 of The Limitation Act, 1963, for condonation of delay, it was stated that the previous Clerk Shri Cheranjee Lal died on 19.10.2010 and he did not hand over the file to his successor. When the present Legal Advisor Shri M.C. Jaswal, took the charge of the office, the file was never put up before him. It is only when respondent No.1 came to enquire about the filing of appeal that they came to know that the appeal has not been filed.

I am of the view that in case of condonation of delay in respect of public institutions, the Court has to be bit liberal. It happens that the file in such offices are dealt with by many officers/officials and for the negligence of one or the other officer/official, the file is held up. A long procedure is prescribed in dealing with the matter. Therefore, the lower Appellate Court instead of dismissing the appeal being time barred, should have proceeded to decide the appeal on merits. The plea of the Corporation from its face, cannot be discarded that the file was never put up before the present incumbent and he came to know only when one of the respondents came to to enquire about the filing of the appeal.

As such, the present revision is allowed. The delay of 120 days in filing the appeal is condoned. The case is remanded to the Court of learned Addl. District Judge, Amritsar, to hear the appeal on merits and decide the same in accordance with law.

The parties are directed to appear before the learned District Judge, Amritsar on 18.04.2018 at 10.00 a.m.

(KULDIP SINGH)
JUDGE

March 12, 2018

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Whether speaking / reasoned Yes

Whether Reportable: No