

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

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**CR No. 576 of 2017 (O&M)
Date of Decision: August 24, 2018**

NARINDER PAL SINGH

...Petitioner

Versus

GURDIAL KAUR AND OTHERS

...Respondents

CORAM:- HON'BLE MR. JUSTICE DEEPAK SIBAL.

Present:- Mr. Pardeep Singh Mirpur, Advocate,
for the petitioner.

Mr. Inderjeet Singh, Advocate,
for the respondents.

DEEPAK SIBAL, J. (Oral)

The present petition is directed against the order dated 19.05.2016 passed by the Additional District Judge, Bathinda, (for short 'the Appellate Court') vide which the petitioner has been directed to furnish a bank guarantee for an amount of ₹ 10 lakhs to secure the interest of the respondents. Challenge is also made to the order dated 19.07.2016 passed by the Appellate Court, dismissing the petitioner's appeal in default for non-compliance of the aforesaid order dated 19.05.2016.

The facts in brief which are required to be noticed for adjudicating upon the present petition are that the respondents filed a suit under the Fatal Accidents Act, 1855 for payment of compensation from the defendants therein, including the petitioner, for having caused the murder of Harkaran Singh, who was son of respondents No. 1 and 2 and father of

respondents No. 3 and 4. Through judgment and decree dated 13.05.2010, the suit was decreed and the petitioner alongwith other defendants to the suit were directed to jointly and severally pay to the respondents a sum of ₹1 lakh each alongwith 12% interest from the date when Harkaran Singh was murdered till the date of actual payment of the decretal amount. The petitioner filed an appeal against the aforesaid judgment and decree. However, since the appeal had been filed after a delay of about one and half years, along with the appeal, an application under Section 5 of the Indian Limitation Act 1963 (for short the Act) was also filed seeking condonation of delay. The Appellate Court was informed by the respondents that during execution proceedings initiated by the respondents the petitioner had transferred his attached property in the name of his mother and therefore, the petitioner's appeal should not be entertained. The respondents further requested the Appellate Court to secure their interests. The Appellate Court after considering the entire matter directed the petitioner to furnish a bank guarantee for an amount of ₹10,00,000/-. However, since the needful was not done, his appeal was dismissed in default.

Learned counsel for the petitioner has been heard.

As per the judgment and decree dated 13.05.2010, the petitioner along with other defendants in the respondents' suit were jointly and severally required to pay a sum of ₹ 1 lakh each, along with annual interest @ 12%, to the respondents from the date when Harkaran Singh was murdered by the petitioner and other defendants in the suit. The petitioner challenged the said decree through an appeal but since the appeal was filed after a delay of about one and half years, it was accompanied by an application under Section 5 of the Act through which condonation of delay

in the filing of the appeal was sought. The Appellate Court, on being notified by the respondents that the petitioner was trying to frustrate the decree by transferring his assets, directed the petitioner to furnish a bank guarantee for ₹10 lakhs so that the interest of the respondents could be secured.

In view of the above, I find no reason to set aside the orders passed by the Appellate Court requiring the petitioner to secure the interest of the respondents especially when the petitioner was found to be fraudulently transferring his assets to frustrate the decree passed in favour of the respondents. No error is also found in the order dismissing the petitioner's appeal in default for having not complied with the conditions imposed by the Appellate Court, which as per the observations made above, are found to be just and proper.

Dismissed.

August 24, 2018
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(DEEPAK SIBAL)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No