

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

CR No.6966 of 2018

Date of Decision : 12.10.2018

Kailash Rani

.....Petitioner

Versus

Ranjit Singh and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present : Mr. Anil Shukla, Advocate
for the petitioner.

SUDIP AHLUWALIA, J. (ORAL)

This revision is directed against the impugned order dated 21st July, 2017 passed by the Ld. Additional District Judge, Chandigarh vide which the petitioner's application for condonation of delay of 1219 days in filing her appeal against the Judgment & Decree of the Ld. Civil Judge (Junior Division), Chandigarh dated 1st May, 2012 in Civil Suit No.151 of 18th July, 2007 was dismissed. The aforesaid suit had been dismissed against the petitioner-plaintiff even though the defendants had been proceeded *ex parte* by the Ld. Trial Court.

2. The Ld. Appellate Court found no merit in the petitioner's application for condonation of delay in which the delay was explained in the following manner :-

“4. That the appellant appeared in the witness box and thereafter the case has been fixed on

various dates and for arguments however the appellant being lady could not contact her counsel. The appellant has not been keeping well and is under going treatment. The appellant has not been informed regarding the decision rendered by the Ld. Trial court and when the husband of the appellant contacted his counsel in the month of December, 2014, he has been informed that the suit has been dismissed. The certified copy of the judgment and decree has not been supplied as the same has been misplaced by the counsel however the photocopy of the same was in the brief handed over to the husband of the appellant. The husband of the appellant contacted the present counsel for filing appeal and the appeal could not be filed without certified copy and thus the certified copy was got applied on 21.1.2015 however the same has not been supplied till date as the case file of the Ld. Trial court is not traceable.”

3. It is remarkable that ultimately the petitioner filed her appeal by attaching a photocopy of the impugned Judgment and Decree passed by the Ld. Trial Court which is Annexure P-1 to the present petition.

4. Perusal of the same shows that it was attested by the Clerk of the Ld. Trial Court on 10th May, 2012. Undoubtedly, this uncertified copy of the impugned judgment was available to the petitioner's counsel. She has not even mentioned about any specific

date on which she allegedly fell ill so as to make out a tangible case that she could not contact her Ld. Counsel from or since prior to dismissal of the suit on 1st May, 2012, or for a long time thereafter. The knowledge regarding such dismissal is claimed to have been acquired only towards the end of the year 2014 through the petitioner's husband, but her conduct in not seeking to gather such knowledge for a period exceeding 2½ years immediately preceding that, without even mentioning the nature of her affliction renders her case altogether incredible.

5. For the above reasons this Court finds no impropriety in the impugned order.

6. Dismissed.

October 12, 2018
Dpr

(SUDIP AHLUWALIA)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No