

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

**C.R. No.8474 of 2016 (O&M)
Date of Decision: March 15, 2018**

Ranjan Sood and others

...Petitioners

Versus

Shashi Gupta and others

...Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Pankaj Sharma, Advocate
for the petitioners.

Mr. Ranjit Singh, Advocate
for respondent No.1.

FATEH DEEP SINGH, J.

Through this civil revision petition the petitioners have sought setting aside of orders dated 27.10.2016 Annexure P/4 passed by the Court of learned Additional District Judge, Ludhiana, whereby, application of the respondent for condonation of delay in filing the appeal stood allowed.

Heard, learned counsel for the parties and perused the records of the case. The brief facts are that a suit for declaration etc. was pending in the Court of learned Additional Civil Judge, (Senior Division) Khanna and was dismissed in default on 26.09.2003 on account of non-appearance of counsel for the party and claimed that it was unintentional and bonafide mistake and which was opposed by the other side upon which the trial Court framed the issues and parties led their evidence. The Court of learned Additional Civil Judge, Senior Division, Khanna through orders

dated 19.12.2012 dismissed the application but the same was allowed vide impugned order dated 27.10.2016 of the Court of learned Additional District Judge, Ludhiana.

Appreciating the submissions of the two sides, it is the categorical stand of the respondent that on account of wrong legal advice instead of filing an appeal they had filed civil revision No.753 of 2013 before this Court and which was withdrawn with liberty to approach the Appellate Court as per order dated 02.09.2015 Annexure P/2 of this Court. The Court below has taken recourse to provisions of Section 14 of the Limitation Act, 1963 which provides for exclusion of time of proceedings bonafide in Court without jurisdiction. Precisely this was the situation where instead of filing appeal against impugned order the counsel for the respondent, then plaintiff had filed revision which was withdrawn and, thus, adequately takes care that it was on account of wrong legal advice time was spent and apparently suggests that there was all bonafide and good faith on the part of the respondent. Though, on behalf of the petitioners resort has sought to be taken by placing reliance on **2002(3) RCR (Civil) 645 Deena (dead) through LRs vs. Bharat Singh (dead) through LRs** and **2005(4) RCR (Civil) 132 Damodaran Pillai and others vs. South Indian Bank Ltd .** However, the same do not come to the aid of the petitioners. Since Section 14 of Limitation Act takes adequate care of such a remiss by the lawyer by not approaching the appropriate jurisdiction and party cannot be penalised for the wrong acts of his lawyer. More over, no material prejudice is likely to be caused to the other side and it has been rightly concluded by the Court below in the impugned order that it was on account of bona fide mistake on

the wrong advice of the lawyer. Thus, there appears to be no illegality or perversity in the findings so recorded by the Court below. The revision petition being hopelessly without any merits stands dismissed.

(FATEH DEEP SINGH)
JUDGE

March 15, 2018
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No