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

**CR No.8223 of 2018
Date of Decision: 04.12.2018**

Smt. Surindra Arora

Petitioner

Versus

Paramjit Kaur

Respondent

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. S.P. Soi, Advocate
for the petitioner.

AVNEESH JHINGAN, J (Oral):

The present civil revision petition has been filed by the petitioner being aggrieved of the order dated 26.10.2018 passed by Additional District Judge, Jalandhar [hereinafter referred to as 'appellate Court'], condoning the delay of 113 days in filing the appeal.

The facts in brief are that the petitioner filed a suit for specific performance of an agreement to sell dated 21.05.2009. The suit was decreed in favour of the petitioner on 18.11.2017. Aggrieved of the judgment and decree, respondent filed an appeal on 16.04.2018. The appeal was accompanied by an application under Section 5 of the Limitation Act, 1963 for condoning the delay

of 113 days in filing the appeal.

On notice, the petitioner filed reply to the application for condonation of delay. Vide order dated 26.10.2018, the appellate Court condoned the delay of 113 days subject to costs of ₹2,000/-. Aggrieved of the said order, present civil revision petition has been filed.

Learned counsel for the petitioner contends that the appellate Court wrongly mentioned that the counsel for the respondent made a statement that delay should be condoned. His grievance is that no such statement was made. He further contends that the delay is unexplained, hence, the appellate Court has erred in condoning the delay without framing any issues.

The contentions raised by learned counsel for the petitioner lacks merit. From perusal of the order, it is evident that the stand taken by the petitioner in his reply was taken into consideration by the appellate Court. Though, in the concluding paragraph it has been mentioned that, keeping in view the circumstances and also the statement made by learned counsel for the respondent/appellant, delay in filing the appeal is condoned. There is no affidavit of the concerned counsel that no such statement was made while arguing the application. Be that as it may, the delay is not inordinate. The delay was only of 113 days. In the application itself, the applicant has explained the reasons for delay that though the suit was decided on 18.11.2017, but the appellant came to know about it only on 12.03.2018, i.e., when the warrant of possession was served upon

her. Thereafter, she approached the petitioner to settle the dispute, but the matter could not be settled. She applied for certified copy of judgment and decree on 13.03.2018. The copy was supplied to her on 17.03.2018 and the appeal alongwith the application for condonation of delay was filed on 16.04.2018. The appellate Court was satisfied that the delay has been duly explained.

The law is well settled that a liberal view of the phrase 'sufficient cause' is to be taken and each day delay is not required to be explained. Moreover, substantial justice should not be made to suffer when pitted against technicalities.

Reliance in this regard is placed on the decision of the Supreme Court in **Oriental Aroma Chemical Industries Ltd. Vs. Gujarat Industrial Development Corporation and another, 2010 (5) SCC 459**, it was held as under :-

“8. We have considered the respective submissions. The law of limitation is founded on public policy. The legislature does not prescribe limitation with the object of destroying the rights of the parties but to ensure that they do not resort to dilatory tactics and seek remedy without delay. The idea is that every legal remedy must be kept alive for a period fixed by the legislature. To put it differently, the law of limitation prescribes a period within which legal remedy can be availed for redress of the legal injury. At the same time, the courts are bestowed with the power to condone the delay, if sufficient cause is shown for not availing the remedy within the stipulated time. The expression "sufficient cause" employed in Section 5 of the Indian Limitation Act, 1963 and similar other statutes is elastic enough to enable the courts to apply the law in a meaningful manner which sub serves the ends of justice.

Although, no hard and fast rule can be laid down in dealing with the applications for condonation of delay, this Court has justifiably advocated adoption of a liberal approach in condoning the delay of short duration and a stricter approach where the delay is inordinate.”

The respondent has already been burdened with costs of ₹2,000/- while condoning the delay.

In such circumstances, no interference is called for in the impugned order.

The civil revision petition is dismissed, accordingly.

[AVNEESH JHINGAN]
JUDGE

December 04th, 2018

pankaj baweja

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| 1. Whether speaking/ reasoned | : | Yes/ No |
| 2. Whether reportable | : | Yes/ No |