

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

240

CR No. 8729 of 2016 (O&M)

Date of Decision : 30.1.2018

RAM KRISHAN GILL

....PETITIONER

VS

**RAJINDER PARSAD JALLAN (NOW DECEASED) THROUGH
HIS LR**

....RESPONDENT

CORAM: HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr. Sanjay Jain, Advocate
for the petitioner-tenant.

Mr. S.S. Behl, Advocate
for the respondent-landlord.

AJAY TEWARI, J.(Oral)

This revision has been filed against the order of the appellate Court condoning the delay of 468 days which as per the petitioner was unjustified and without sufficient cause.

The case of the respondent for condonation was that his father (the original landlord) had initiated the eviction proceedings against the petitioner which were dismissed on 29.09.2014. At that time the original landlord was suffering from ill health and in fact passed away on 14.01.2015. Thereafter, the respondent got his bearings after a few months and approached the counsel and filed the appeal with the delay. As mentioned above, the delay having been condoned the tenant is before me.

Counsel for the petitioner-tenant has argued that the plea taken that the counsel did not inform the respondent could not have been heard since it was always the duty of the client to contact the advocates and the advocates are not supposed to contact their clients.

On the other hand, learned counsel for the respondent has argued that the issue of limitation has to be considered in the facts of each case. If by the operation of limitation an indefeasible right has occurred to the party the issue of limitation will be decided in different manner but if as in the present case the only effect of the delay was to benefit the tenant and no indefeasible right has been created in his favour the issue of limitation has to be considered in a different manner.

I find myself in agreement with the arguments of the counsel for the respondent. Consequently, I dismiss the revision petition. However, counsel for the petitioner has argued that the costs imposed were too meagre. I find that to be correct.

In the circumstances, I increase the costs by another amount of Rs.11,000/-. Let the respondent deposit the said costs before the appellate authority on the next date of hearing.

Since the main case has been decided, the pending C.M, if any, also stand disposed of.

30.1.2018
anuradha

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned	-	Yes/No
Whether reportable	-	Yes/No