

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

Civil Revision No.8670 of 2014 (O&M)

Date of Decision: 12.07.2018

Hukam Kaur

...Petitioner

Vs.

Gurpreet Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present:- Mr. Vinod Khunger, Advocate, for the petitioner.
Mr. Raman Goklaney, Advocate,
for respondent no.1.

Amol Rattan Singh, J (Oral)

By this revision petition, the petitioner challenges the order of the learned Appellate Court (District Judge, Ferozepur), dated 29.10.2014 (Annexure P-5), dismissing the application filed by the petitioner herein, seeking condonation of a delay of 179 days in filing an appeal against the judgment and decree of the learned Addl. Civil Judge (Sr. Divn.), Ferozepur, dated 18.07.2013 (Annexure P-2), by which the suit of respondent no.1 (plaintiff, Gurpreet Singh), was decreed in his favour, with appellant no.1, (petitioner Hukam Kaur), directed to execute the sale deed in respect of the suit land in favour of the plaintiff, and respondents no.2 and 3 herein, i.e. defendants no.2 and 3 before the learned Civil Judge, also directed to join the present petitioner-defendant no.1, at the time of the execution of the sale-deed, failing which the plaintiff would be at liberty to get the sale-deed executed and registered in his favour, “through agency of the Court”.

A perusal of the impugned order passed by the learned District Judge shows that the application seeking condonation of delay was dismissed on the ground that, firstly, the ground for delay was given to be the fact that it

was the late husband of the present petitioner who was 'handling' the case of the petitioner before the learned Civil Judge and as he had died on 24.06.2013, she being an illiterate lady had erred in filing the appeal on time. That contention was rejected on the ground that the suit had been decreed on 18.07.2013, i.e. about a month after the death of petitioners' husband and secondly, the other ground taken for condonation of the delay, to the effect that the Clerk of the petitioners' counsel had not informed her with regard to the judgment and decree in time, was also not a ground that inspired confidence.

Be that as it may, when this petition was filed, after notice had been issued on 18.12.2014, proceedings in the application seeking execution of the judgment and decree were stayed by this Court on 07.01.2015, which order continues to operate till date.

Consequently, the respondent-plaintiff had filed Civil Misc. no.11084-CII-2018, seeking early disposal of the petition in view of the stay operating against him, which application was allowed vide an order of this Court, dated 31.05.2018, upon a statement made by counsel for the applicant-respondent no.1 (plaintiff), to the effect that the revision petition may be disposed with a direction to the learned District Judge, Ferozepur, to hear the first appeal preferred by the petitioner.

In other words, respondent no.1 (decree holder) has no objection to the application filed seeking condonation of delay in filing the appeal before the first Appellate Court, being allowed and the delay condoned and thereafter the appeal of the petitioner before that Court being heard on merits.

Learned counsel appearing for respondent no.1 (plaintiff) reiterates the same even today.

That being so, this petition is allowed and the impugned order of the learned first Appellate Court dated 29.10.2014 (Annexure P-5), is set aside,

with the delay of 179 days in filing the appeal before that Court against the judgment and decree of the learned Addl. Civil Judge (Sr. Divn.), Ferozepur, dated 18.07.2013 (Annexure P-2), condoned.

Consequently, the first appellate court would now hear the appeal of the petitioner against the said judgment on merits, and decide the same within a period of 6 months.

The parties would now appear, either in person or through counsel, before the first appellate court on 26.07.2018.

12.07.2018
vcgarg/dinesh

(Amol Rattan Singh)
Judge

Whether speaking/reasoned : Yes
Whether reportable : Yes