

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

CRR-1441-2018(O&M)
Date of decision:-1.8.2018

Smt.Mona Rani

...Petitioner

Versus

Gurdeep Kumar and others

...Respondents

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Dr.Rau P.S. Girwar, Advocate
for the petitioner.

H.S. MADAAN, J.

This revision petition is directed against the order dated 8.5.2017 passed by Civil Judge(Jr.Divn.) cum Judicial Magistrate, Barnala vide which application by respondent – Gurdeep Kumar seeking permission to alienate the property at village Hamidi was allowed.

Briefly stated, facts of the case are that in a petition under Section 12 of the Protection of Women from Domestic Violence Act, 2005 filed by petitioner Mona Rani against her husband Gurdeep Kumar, Gurdeep Kumar had submitted an application before Civil Judge (Jr.Divn.) cum Judicial Magistrate, Barnala that he be allowed to alienate

the property at village Hamidi as he wanted to purchase some other property. That application was opposed on behalf of the petitioner on the ground that the same had been filed with a *mala fide* intention to defeat the right of the petitioner. Gurdeep Kumar had made a statement on oath before the Court that he had placed his property including the property at village Hamidi as security for payment of maintenance, undertaking not to alienate the same and further that he wants to alienate his share in the property at village Hamidi and he would place at the disposal of the Court, the property which he purchased from the sale consideration thereof. The share of Gurdeep Kumar in the property was worked out to roughly 9 bighas, whereas the maintenance amount fixed was Rs.6,000/- per month. The trial Court found that above property was sufficient security for payment of maintenance to the petitioner and in view of the statement made by respondent, there was no impediment in allowing the application. The application was accepted subject to the condition that Gurdeep Kumar – respondent would place before the Court the property he purchased as security.

The grouse of the petitioner is that earlier the respondent had filed an application before District Judge, Family Court, Barnala. Thereafter, the business of the Court was withdrawn and transferred to JMIC Court. Thereafter, the JMIC, Barnala had passed the impugned order overriding the superior Court order. The petitioner had filed a revision petition before the Court of Sessions, Barnala, however, the same was dismissed as withdrawn.

The present revision petition has been filed belatedly by 257

days. An application under Section 5 of the Limitation Act for condonation of delay has been filed for the reason that petitioner is woman having minor son; that she had filed a petition under Domestic Violence Act before Family Court, Barnala on 11.12.2014 and stay was granted against the property, though the case was triable by Family Court in view of Section 26 but the then District Judge, Family Court, Barnala had transferred the case to JMIC Court and then the impugned order was passed; that the revision petition has been filed but was withdrawn; that the delay is not intentional and wilful and such should be condoned.

I have heard learned counsel for the petitioner besides going through the record.

Section 3 of the Limitation Act, 1963 deals with Bar of Limitation providing that every suit instituted, appeal preferred, and application made after the prescribed period shall be dismissed although limitation has not been set up as a defence.

The petitioner had approached the Court of Sessions first. However, subsequently, withdrew the petition. Ignorance of law is no excuse. The delay in approaching this Court is considerable. I do not find sufficient reasons to condone the delay. Therefore, application under Section 5 of the Limitation Act being devoid of any merit stands dismissed accordingly.

The revision petition being time barred is doomed for failure. However, on merits also, the revisionist does not have any case. Learned trial Magistrate has passed the order in view of undertaking given by respondent that he would place the property so purchased after sale of

property at village Hamidi. Therefore, rights of the petitioner are adequately protected. She is feeling aggrieved without any reason and she does not have any case on merits also.

Therefore, the revision petition is dismissed being time barred as well as on merits also.

1.8.2018

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(H.S.MADAAN)**JUDGE****Whether reasoned/speaking : Yes/No****Whether reportable : Yes/No**