

(108) IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

LPA No.522 of 2018 (O&M)
in CWP No.12061 of 1989
Date of decision: 16.04.2018

Malkiat Singh

..... Appellant

Versus

State of Haryana and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL.
HON'BLE MR. JUSTICE B.S. WALIA.

Present: Mr. Akshay Bhan, Senior Advocate with
Mr. Harparteek Singh Sandhu, Advocate for the appellant.

Rajesh Bindal, J.

Order dated 14.03.2011 dismissing the writ petition in default and order dated 13.12.2017 passed in C.M. Nos.17761 and 17762 of 2017 vide which application for restoration of the writ petition dismissed in default, was dismissed as there was delay of 2398 days in filing the application, have been impugned in the present intra-court appeal. The appeal is accompanied by applications seeking condonation of delay of 2478 days in filing and 29 days in refiling thereof.

The ground stated in the application seeking condonation of delay is that the writ petition was initially filed through Baljinder Singh, Advocate. Subsequently, the applicant engaged Lal Singh Sandhu, Advocate who had put in appearance in Court on 17.02.2010 and sought time. Immediately thereafter, again counsel was changed and Surajmal Kundu, Advocate was engaged, who had put in appearance in Court on 15.03.2010 and again sought time for arguments. Thereafter, counsel had been informing the applicant/appellant that the writ petition is admitted and

it will take some time for listing. Now, the applicant/appellant came to know that the writ petition was dismissed in default on 14.03.2011.

In our view, the aforesaid facts do not justify the condonation of huge delay in filing the appeal. The writ petition pertains to the year 1989 which was admitted. Mere fact that in February-March, 2010, the applicant/appellant changed two Advocates, establishes the fact that the case was to the knowledge of the appellant on the regular list and was to be taken up for hearing, as it is the admitted case of the applicant/appellant that both the counsel engaged by the applicant/appellant had sought time for arguments. The writ petition was dismissed in default on 14.03.2011. For more than six years, the applicant/appellant kept quiet and did not enquire about the progress in the case though he claimed that the counsel had been stating that the case is still pending. This can hardly be accepted as reasonable explanation for condoning huge delay of 2478 days in filing the appeal. Even application of restoration filed after huge delay was also rightly dismissed by the learned Single Bench

For the reasons mentioned above, the application seeking condonation of 2478 day's delay in filing the appeal, is dismissed. Consequently, the appeal is also dismissed.

(Rajesh Bindal)
Judge

16.04.2018
amit

(B.S. Walia)
Judge

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