

Sr. No. 104

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

**CM No.18065-C of 2016 in/and
RSA No.6974 of 2016**

Date of Decision: 27.08.2018

Ninder Kaur

... Appellant

Versus

Narinder Kaur and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present:- Mr. A.S.Jawandha, Advocate,
for the appellant.

TEJINDER SINGH DHINDSA, J.(ORAL)

Plaintiff is in second appeal before this Court having remained unsuccessful in both the Courts below.

Briefly, it may be noticed that plaintiff instituted a suit for declaration to the effect that she is co-sharer in possession in respect of land measuring 1 kanal 10 marlas being 1/4th share out of land measuring 6 kanals bearing khewat No.212, khatauni No.754 and comprised in khasra No.149//7/2/2(6-0) as recorded in the jamabandi for the year 2005-06 situated in the revenue estate of Village Chohla Sahib (Ura), Tehsil and District Tarn Taran.

Suit was dismissed by the trial Court vide judgment dated 17.02.2014 and civil appeal preferred has met the same fate vide judgment dated 18.04.2016 passed by the learned Additional District Judge, Tarn Taran. Resultantly, the instant second appeal.

Appeal is accompanied by an application i.e. CM No.18065-C of 2016 seeking condonation of delay of 82 days that has occurred in filing the regular second appeal.

It may be noticed that in the application filed under Section 5 of the Limitation Act seeking condonation of delay the reason cited is that the appellant was suffering from dengue fever in the month of July and had been admitted to a hospital. It was further asserted in the application that only after having recovered from illness that the appeal has been filed and a delay of 82 days has occurred on account of illness.

On a previous date of hearing 23.01.2018, the following order was passed by a Coordinate Bench of this Court:-

“Appellant seeks condonation of delay of 82 days in filing the present appeal on the ground that she was suffering from dengue in the month of July.

Let Medical record of the appellant along with personal affidavit be filed on 18.05.2018.”

In spite of opportunities having been availed, the order dated 23.01.2018 has not been complied with.

Even during the course of hearing today, counsel pleads no instructions.

Under such circumstances, it is clear that no material has come forth to substantiate the ground and basis set forth in the application seeking condonation of delay.

Accordingly, prayer for condonation of delay in filing the main second appeal is declined.

Application is dismissed.

In view thereof the regular second appeal also stands dismissed.

27.08.2018

vandana

(TEJINDER SINGH DHINDSA)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes
No