

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

**SAO No. 73 of 2015 (O&M)
Date of Decision: 25.05.2018**

Ramavtar and others

...Appellants

Versus

Mool Chand and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. B. K. Bagri, Advocate
for the appellants.

None for the respondents.

KULDIP SINGH J. (Oral)

CM-20402-CII-2015

This application has been filed for condonation of delay of 33 days in re-filing the present appeal.

In view of the averments made in the application, the same is allowed and the delay of 33 days in re-filing the present appeal is hereby condoned.

SAO-73-2015

Impugned in the present appeal is the order dated 07.03.2015, passed by learned District Judge, Jhajjar, vide which, the application for condonation of delay of five months was dismissed and consequently the appeal was also dismissed.

I have heard learned counsel for the appellants.

It comes out that these plaintiffs filed a suit for permanent

injunction against the defendants. The said suit was dismissed on 22.04.2013 by learned Civil Judge (Sr. Divn.), Jhajjar. The appeal was filed on 24.10.2013 with an application under Section 5 of the Limitation Act, 1963 for condoning the delay of five months. In the application seeking condonation of delay, it was claimed that appellant No. 4, namely Bharat Bhushan, was pursuing the case on behalf of all the appellants, who fell ill in the month of April, 2013 and was taken to Base Hospital, Delhi Cantt. Therefore, he could not file the appeal in time.

Lower appellate Court has observed that there are six appellants. All of them are brothers. Even if, one of the appellants fell ill, the other appellants could file the appeal. Moreover, even as per the record produced before the trial Court, appellant Bharat Bhushan was admitted in Base Hospital, Delhi Cantt. on 29.05.2013. No documents of his discharge were given though learned counsel for the appellants submitted before this Court that Bharat Bhushan was discharged on 24.06.2013. Even if it so, the appeal was filed 24.10.2013. There is no explanation for the said delay.

It being so, I am of the view that the condonation of delay in filing the appeal was rightly refused. Accordingly, no ground is found to interfere in the impugned order.

Appeal is dismissed.

Since the main appeal is dismissed, therefore, pending civil miscellaneous application, if any, shall also stand disposed of.

25.05.2018

Waseem Ansari

(KULDIP SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No