

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

**CM-3612-C-2017 in/and
RSA-1497-2017 (O&M)
Date of Decision:03.08.2018**

Gurdial Kaur @ Dialo

... Appellant

Versus

Pritam Singh & another

... Respondents

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

Present:- Mr. L.S. Sekhon, Advocate for the appellant.

...

TEJINDER SINGH DHINDSA, J. (ORAL).

Plaintiff/appellant-Gurdial Kaur @ Dialo is in second appeal before this Court as a suit for joint possession claiming herself to be owner to the extent of 1/3rd share of the suit land and for permanent injunction has been dismissed by both the Courts below.

2. The appeal is accompanied by an application i.e. CM-3612-C-2017 seeking condonation of delay of 866 days in filing the main appeal.

3. The only ground taken in the application seeking condonation of delay is to the following effect:

“Present appeal could not be filed well in time, because there is no male member in the family to pursue the case as the appellant is illiterate lady and she is not having the knowledge of limitation.”

4. Counsel for the applicant/appellant has also during the course of arguments re-iterated the same very ground as taken in the application

and prays for condonation of delay.

5. Having heard counsel for the applicant/appellant, this Court is of the considered view that there would be no justification for condoning the inordinate delay of 866 days.

6. In **Oriental Aroma Chemical Industries Limited Vs. Gujarat Industrial Development Corporation and another, 2010 (2) RCR (Civil) 284**, it was held that a liberal approach should be adopted in condonation where the delay is of short period and a strict approach where the delay is inordinate. Relevant observations made by the Apex Court is as under:-

“We have considered the respective submissions. The law of limitation is founded on public policy. The legislature does not prescribe limitation with the object of destroying the rights of the parties but to ensure that they do not resort to dilatory tactics and seek remedy without delay. The idea is that every legal remedy must be kept alive for a period fixed by the legislature. To put it differently, the law of limitation prescribes a period within which legal remedy can be availed for redress of the legal injury. At the same time, the courts are bestowed with the power to condone the delay, if sufficient cause is shown for not availing the remedy within the stipulated time. The expression “sufficient cause” employed in Section 5 of the Indian Limitation Act, 1963 and similar other statutes is elastic enough to enable the courts to apply the law in a meaningful manner which sub serves the ends of justice. Although, no hard and fast rule can be laid down in dealing with the applications for condonation of delay, this Court has justifiably advocated adoption of a liberal approach in condoning the delay of short duration and a stricter approach where the delay is inordinate.”

7. Adverting back to the facts of the present case, the

justification sought to be set forth in the application seeking condonation of delay cannot be accepted. The applicant had duly filed the suit and the same having been dismissed, had preferred a civil appeal as well. She has been duly represented by counsel.

8. This Court would be constrained to observe that the applicant/appellant has not acted diligently in the matter and the reasons furnished seeking condonation i.e. there being no male member and the applicant being illiterate would not fall within the expression 'sufficient cause' to condone the delay. Applicant/appellant has remained totally inactive and which has resulted in an inordinate delay of 866 days in filing the second appeal. As per dictum laid down in **Oriental Aroma Chemical Industries Limited (supra)**, a strict approach ought to be adopted in dealing with the application where delay is inordinate.

9. In view of the above, the justification put forth at the hands of the applicant/appellant seeking condonation of delay of 866 days in filing the appeal cannot be accepted.

10. As a result, the application for condonation of delay is dismissed.

11. Consequently, the main appeal is also dismissed being time barred.

03.08.2018

harjeet

(TEJINDER SINGH DHINDSA)

JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No