

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

**CM-13655-C-2014 in/and
RSA No.5757 of 2014 (OM)
Date of decision : April 24, 2018**

Nachhattar Singh (deceased) through LRs Appellant

Versus

Bachittar Singh and others Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. A.K. Khunger, Advocate for the appellant.

Mr. Rakesh Nagpal, Advocate for the respondents.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

KULDIP SINGH J. (ORAL)

This order of mine shall dispose of an application filed under Section 5 of the Limitation Act, 1963, for condonation of delay of 303 days in filing the present regular second appeal.

It is stated in the application that the applicant-appellant had filed an appeal before the learned Addl. District Judge, Sirsa, through his counsel. The learned counsel for the applicant-appellant before the first appellate Court had assured him that after the decision of the appeal, he will inform him. After waiting for a sufficient long time, when the counsel for the appellant before the first appellate Court did not inform him regarding the fate of the appeal, he visited his counsel at Sirsa in October, 2014, to know about the fate of the appeal. On visiting Sirsa, his counsel told him that his appeal has been dismissed on 09.10.2013 and the counsel had written him a letter regarding the fate of his appeal. No such letter was

received by the applicant-appellant. Immediately thereafter, he got the certified copy of the judgment passed in the appeal and filed the present appeal along with an application for condonation of delay of 303 days in filing this appeal. The application was supported by an affidavit of the applicant-appellant.

In the reply, the respondents have taken the plea that they have already taken the possession of the suit land on the basis of the decree, which is under challenge. The ground taken in the application has been denied.

I have heard learned counsel for the parties and have also carefully gone through the case file.

The only ground sought for condoning the delay of 303 days in filing the present appeal is that the counsel for the applicant-appellant before the first appellate Court did not inform him about the fate of the appeal and that when a year later, he visited Sirsa and enquired about the fate of his appeal from his counsel, then he was informed that his appeal has been dismissed on 09.10.2013. No affidavit of the counsel has been attached with the application that he had not informed the applicant-appellant about the fate of appeal.

A perusal of the certified copy of the judgment passed by the first appellate Court shows that at the time of the arguments, the counsel for the applicant-appellant was present. He was fully authorized to pursue the case on behalf of the present applicant-appellant. Therefore, the only plea that his counsel did not inform him about the fate of his appeal, cannot be believed. There is delay of little less than one year in filing the present regular second appeal. There is no ground to condone such huge delay.

As such, the application for condonation of delay of 303 days in filing the present regular second appeal is dismissed.

Since, the application for condonation of delay has been dismissed, therefore, the main regular second appeal also stands dismissed. Since the main appeal has been dismissed, therefore, the pending application, if any, also stands dismissed.

(KULDIP SINGH)
JUDGE

April 24, 2018

sarita

Whether speaking / reasoned Yes

Whether Reportable: No