

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CR No.6852 of 2017 (O&M)

Date of decision:15.01.2019

Joginder Singh

... Petitioner

Vs.

Punjab Wakf Board and another

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Veneet Sharma, Advocate
for the petitioner.

Mr. Mohd. Salim, Advocate
for respondent No.1.

AMIT RAWAL J. (Oral)

The present revision petition has been filed against the dismissal of an application filed under Section 5 of the Limitation Act seeking condonation of delay of one year and seven months in filing the appeal against the judgment and decree dated 23.04.2015, whereby, suit for possession filed by the plaintiff was decreed.

Mr. Veneet Sharma, learned counsel appearing on behalf of the petitioner submitted that judgment and decree of the trial Court was passed on 23.04.2015 and the petitioner was apprised by the previous counsel that appeal had been filed. On acquiring the knowledge that no appeal was filed, applied for certified copies of the judgment and decree on 8.11.2016, which was made available on 18.11.2016. In this process, such delay had occurred. The Lower Appellate Court ought not to have dismissed the application in

view of the reasons assigned and should have allowed the application subject to certain terms and conditions.

Mr. Mohd. Salim, learned counsel for respondent no.1 supported the order under challenge as delay is un-reasonable, lacks reasonable cause, did not conform to the parameters for condonation of delay. Ignorance of law is no excuse and thus, prayed for dismissal of the petition.

I have heard the learned counsel for the parties, appraised the paper book and of the view that no doubt, conduct of the petitioner had been lackadaisical and tardy and it was obligatory upon him to inquire from the previous counsel or obtained the certified copy of the judgment and decree instead of believing him orally.

Be that as it may, in order to prevent miscarriage of justice and do justice, I am of the view that appeal should have been decided on merits as the statutory right of the party has been taken away on the ground of delay subject to the imposition of costs of Rs.50,000/- which is a condition precedent.

The impugned order is hereby set aside. The appeal is ordered to be restored to its original number. The Lower Appellate Court is directed to decide the appeal within a period of 12 months from the date of receipt of certified copy of this order.

The parties through their counsel are directed to appear before the Lower Appellate Court on 14.02.2019.

Revision petition stands allowed.

(AMIT RAWAL)
JUDGE

January 15, 2019
savita

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No