

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

Sr. No.212

**CR No.7595 of 2016 (O&M)
Date of decision: 23.10.2019**

Savita Verma and others

....Petitioners

versus

Naresh Kumar Verma and others

....Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Vishal Aggarwal, Advocate
for the petitioners.

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DEEPAK SIBAL, J. (Oral)

The present petition is directed against the order 23.02.2015 passed by the Additional District Judge, Ludhiana (for short – the Appellate Court) dismissing the petitioners' appeal filed by them to challenge therein dismissal of their suit by the Trial Court on 03.05.2012.

The facts, in brief, which are required to be noticed for adjudicating upon the present petition are that the petitioners filed a suit seeking therein separate possession by way of partition of property No.315 known as Kalyan Building, Bazar Sarafan, Ludhiana (for short – the suit property). Permanent injunction to restrain the respondents from alienating the suit property and from raising any construction thereupon or from making any additions/alterations therein was also sought. On being put to notice, the respondents, who were the defendants in the suit, appeared before the Trial Court and filed their written statement through which they disputed the petitioners' claim. The Trial Court framed issues on which both

parties led evidence after sifting of which the petitioners' suit was partly decreed and they were held entitled to separate possession of the suit property to the extent of 1/5th share. The respondents/defendants were further restrained from alienating any specific portion of the suit property and from raising any construction or from making any addition or alteration in the same till the property was partitioned by metes and bounds. Since the petitioners while relying upon a Will of Murari Lal dated 11.03.1996 had sought half share in the property whereas the Trial Court granted them 1/5th share, they filed an appeal against the aforesaid judgment and decree of the Trial Court but since there was delay of 352 days in filing of their appeal and the Appellate Court was of the view that no satisfactory explanation had been given for such delay, their application seeking condonation of delay was dismissed. Consequently, their appeal was also dismissed. Such dismissal is under challenge in the present proceedings.

Learned counsel for the petitioners has been heard.

The petitioners have sought to explain the delay of 352 days in the filing of their appeal by submitting that the judgment and decree of the Trial Court dated 08.05.2012 could not be procured by the power of attorney holder of the appellants till 06.06.2012 as for this period he remained pre-occupied in his business activities. Thereafter, the judgment and decree were sent by the petitioners' power of attorney holder to the petitioners in United Kingdom where they misplaced the same and found it only a week before the filing of the appeal.

The above explanation given by the petitioners if accepted would virtually amount to throwing to the wind the period of limitation prescribed under the Limitation Act, 1963 for filing of an appeal. The given

explanation is not found to be satisfactory. The same is also non-specific and vague. Even otherwise, no proof with regard to the pre occupation of the petitioners' power of attorney holder; loss/misplacing of the judgment and decree in the United Kingdom and of sending and receipt of the judgment and decree to and from the United Kingdom has been even placed on the record by the petitioners.

In view of the above, no error is found in the order of the Appellate Court.

Dismissed.

(DEEPAK SIBAL)
JUDGE

October 23, 2019
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Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No