

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-A-2364-MA-2018 (O&M)
DATE OF DECISION:-16.01.2019

INDERPAL SINGH SAINI

...APPLICANT...

V.

SWARNJEET SINGH AND ORS.

...RESPONDENTS...

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. Rakesh Gupta, Advocate,
for the applicant.

RAMENDRA JAIN, J. (ORAL)

CRM-37075-2018 in/and
CRM-A-2364-MA-2018

Through this application under Section 5 of the Limitation Act, the applicant has sought condonation of delay of 640 days in filing the instant application.

Learned counsel contends that complaint of the applicant was dismissed on 10.11.2016, on account of jotting down wrong date. Thereafter, the applicant moved an application for restoration of his complaint by setting aside said order dated 10.11.2016, which was rejected by the trial court on 14.08.2018. Therefore, the delay in filing the application has occurred on account of the aforesaid reason of pursuing restoration application for around two years, before the trial court.

Having given thoughtful consideration to the submissions made

by learned counsel for the applicant, this Court finds instant application

merits dismissal for the reasons to follow:-

1. There is inordinate delay in filing the instant application, which cannot be condoned on filing of application for restoration of complaint by the applicant, inasmuch as, proper recourse to him under law was to file instant application immediately on dismissal of his complaint on 10.11.2016. The applicant ought to have approached this Court in view of the fact that according to law, Id. Magistrate could not have reviewed his own order of dismissal of the complaint of the applicant.

2. The exercise adopted by the applicant of filing restoration seems to be a colourable exercise. Any illegal procedure adopted by the applicant is not liable to be condoned.

3. Perusal of complaint shows that initially loan was deposited by the father of the complainant to the respondents, who earlier filed civil suit for recovery against them, but during the pendency of same, he expired. According to learned counsel, applicant pursued the same, but, he has not aware of the final result of the same, which fact is, in itself, sufficient to draw inference that his civil suit must have been dismissed.

According, to the allegations in the complaint, the respondents stopped giving interest to the applicant after 2000. The impugned complaint was filed by the applicant in the year 2013 i.e. after lapsing of 13 years, without explaining any plausible reason for filing his complaint

with such an inordinate delay.

Filing of the impugned complaint by the applicant after 13 years again seems to be a malafide device of seeking assistance of the court to put undue pressure upon the respondents to come on table for settlement.

Dismissed.

Since, the application under Section 5 of the Limitation Act has been dismissed on merits, therefore, accompanying appeal shall also be deemed to be dismissed on delay and latches and no separate order is required to be passed.

16.01.2019

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(RAMENDRA JAIN)
JUDGE

whether speaking/reasoned:
whether reportable:

Yes/No
Yes/No