

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

**LPA No.380 of 2019(O&M)
Date of decision: 20.02.2019**

State of Haryana and others

... Appellants

Versus

Neeraj Vikram

... Respondent

**CORAM: HON'BLE MR. JUSTICE KRISHNA MURARI,
CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI, JUDGE**

Present: Mr. Deepak Balyan, Additional Advocate General, Haryana,
for the appellants.

KRISHNA MURARI, C.J. (Oral)

This intra-court appeal under Clause X of the Letters Patent is directed against the judgment and order dated 06.07.2017 passed by the learned Single Judge.

Office has reported 39 days delay in filing and delay of 478 days in re-filing the appeal. The appeal is accompanied by an application under Section 5 of Limitation Act seeking condonation of delay of 39 days in filing as well as application under Section 151 CPC seeking to condone the delay of 478 days in re-filing the appeal. It would be relevant to reproduce the pleas taken in the application under Section 151 CPC, seeking condonation of delay in re-filing:

***“1. That the applicant/appellants are filing the accompanying appeal and for brevity of the application, the ground taken in the memorandum of appeal be read as a part of this application.*”**

2. *That the appeal was filed on 13/9/17 [date written with pen], but the same was returned with some objections by the registry of the Hon'ble High Court lastly on 14/9/17 [date written with pen] with certain objections.*

3. *That after filing of the LPA, the registry of the Hon'ble High Court raised objections and as per the intimation received from the office of the applicants/appellants through telephonically message, the objection has been removed and all the formalities were completed to file the LPA.*

4. *That it is pertinent to mention here that all the required documents have been sent to the office of Ld. Advocate General, Haryana and submitted to the office on 27/11/2017 [date written with pen] and in this process of delay 39 [days written by pen after applying white fluid] has occurred were not intentional but due to bonafide reasons stated above.*

5. *That in this way a delay of _____ [white correction fluid applied] days in refilling the appeal is caused which is not intentional but due to bonafide reasons and due to the limitation of human faculty.*

It is therefore, respectfully prayed that this application may kindly be allowed and delay of 478 [days written with pen after applying white correction fluid] days in refilling the present appeal may kindly be condoned and appeal be heard on merit in the interest of justice.”

At this stage, we may point out that a perusal of the averments made in the application goes to show that it is an application wherein the dates have been filled in by pen on dotted lines. Even otherwise, anybody going through the averments reproduced above would come to the conclusion that there is no explanation at all for the delay of 478 days. An inordinate delay of 478 days in re-filing the appeal is not liable to be condoned without there being

any explanation. It is also a conceded position that against the same judgment various LPAs have been dismissed on the ground of delay and laches, which goes to show that the appellants are in the habit of filing delayed appeals without a proper explanation and this is an extreme case in which even there is no explanation at all.

The application seeking condonation of delay in re-filing the appeal accordingly stands dismissed for want of any explanation and as a consequence the main appeal also stands dismissed.

(Krishna Murari)
Chief Justice

(Arun Palli)
Judge

20.02.2019
Rajan

Whether speaking / reasoned:
Whether Reportable:

YES
NO