

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

CR No.4245 of 2019

Date of Decision : 22.10.2019

The Ferozepur Jhirka Primary Co-operative Agricultural and Rural
Development Bank Ltd.

.....Petitioner

Versus

Ram Singh

.....Respondent

CORAM : HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present : Mr. Rajesh Lamba, Advocate
for the Petitioner.

SUDIP AHLUWALIA, J. (ORAL)

The Judgment and Decree (Annexure P-1) were passed by the Ld. Civil Judge (Junior Division), Ferozepur Jhirka on 8th May, 2010. The Petitioner-The Ferozepur Jhirka Primary Co-operative Agricultural and Rural Development Bank Ltd., challenged the same by way of filing an Appeal before the District Judge on 18th August, 2018, after the Respondent/Plaintiff had filed an Execution Application ostensibly on account of violation of the Decree granted in his favour. The Petitioner/Appellant appeared in the Execution Proceedings on 18th February, 2017, i.e., 1½ years before the Appeal was filed.

2. The total delay in filing the Appeal is to the tune of more than 08 years and 02 months.

3. The Ld. Lower Appellate Court rejected the prayer for condonation of this delay by observing *inter alia* -

“8. No satisfactory, reasonable or even proper explanation has been given by the applicant for seeking condonation of delay. No departmental action has apparently been taken by the applicants against the Bank Managers, who were negligent in pursuing the matter. Desite issuing notice to Deen Mohd. for recovery, no effort was made to recover the due amount of the pending loans from him in accordance with the order dated 1.3.2006. In case titled “**P.K. Ramachandran Vs. State of Kerala and another**” **AIR 1998 Supreme Court 2276**” Hon'ble Apex Court has held that law of limitation may harshly affect a particular party but it has to be applied with all its rigour when the statute so prescribe and the Courts have no power to extend the period of limitation on equitable grounds.

9. The explanation that the Managers of the applicant bank posted in Mewat did not take any interest in the matter appears to be absolutely unjustified and frivolous. It was necessary for the applicant to explain each days delay and give sufficient cause for the said delay. For lethargy and fault of the applicant, the plaintiff cannot be made to suffer. There is gross negligence on the part of the applicant in not filing the appeal in time. The impugned judgment and decree were passed on 8.5.2010 and if the delay is to be condoned mechanically on the lame grounds as taken by the applicant then in almost all cases the Court shall have to condone the delay...”

4. Decision of the Hon'ble Supreme Court in '**State of Nagaland Versus Lipok AO & Ors.**', 2005(2) R.C.R.(Criminal) 414, has been cited on behalf of the Petitioner to support the contention that in case of State or Public Authorities, a liberal approach needs to be adopted since the involvement of the concerned Officers is basically impersonal and the process for taking decisions is cumbersome. The aforesaid decision was followed by the Hon'ble Supreme Court in '**Executive Officer, Antiyur Town Panchayat Versus G.Arumugam (D) by LRs.**', 2015(2) Civil Court Cases 046(S.C.), wherein it was held –

*“4. As held by this Court in **State of Nagaland v. Lipok Ao and others**, 2005(2) Criminal Court Cases 422 (S.C.) : 2005(3) SCC 752, the court must always take a justice-oriented approach while considering an application for condonation of delay. If the court is convinced that there had been an attempt on the part of the government officials or public servants to defeat justice by causing delay, the court, in view of the larger public interest, should take a lenient view in such situations, condone the delay, howsoever huge may be the delay, and have the matter decided on merits”.*

5. It is to be noted that the delay condoned in the case of **State of Nagaland (supra)** was for a period of 57 days only. In **Executive Officer, Antiyur Town Panchayat's case (supra)**, the delay was for a period slightly below 04 years but there were more

tangible grounds justifying the delay inasmuch as the concerned Officer, who was apparently entrusted with the responsibility of taking steps in the light of dismissal of the original Suit of the State Authorities, was involved in misconduct and was placed under suspension. As such, the delay occasioned was only on account of the deliberate lapses imputed on the part of the Executive Officer of the Panchayat at the relevant time, and so the Panchayat/Authority itself could not be penalized for such intentional misconduct of a deviant officer.

6. In the present case, however, by the own admission of the Petitioner, the reasons for not taking appropriate steps for passing of the contested Decree in favour of the Respondent/Plaintiff was admittedly callousness and lack of concern on the part of the Managers of the Petitioner-Bank during the intervening period, and there is no reliance on any systematic procedural lapses as in case of **State of Nagaland (supra)**. At any rate, the delay in the present case is for an inordinately long time being in excess of 08 years which is more than double the time condoned in the case of **Executive Officer, Antiyur Town Panchayat (supra)**. Not only that, here there is visible omission on the part of the Petitioner, on not one but two separate occasions. First of all, the Appeal itself was not filed within a reasonable time after passing of the original Judgment and Decree.

Even if there was any omission on the part of the concerned Managers for the period at an early stage, knowledge of the Decree was definitely available with the Petitioner-Bank, exactly 1½ years before filing of the Appeal since they had undisputedly entered appearance in the Execution Proceedings on 18th February, 2017.

7. In such circumstances, no grounds are made out to grant any indulgence to the Petitioner-Bank.

8. Dismissed.

October 22, 2019

Dpr

**(SUDIP AHLUWALIA)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No