

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

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CM Nos.11589-11591-C-2019 in/and
Regular Second Appeal No.4166 of 2019

Date of Decision: September 9th, 2019

The Executive Officer, Panchayat Samiti, Kahnuwan, District Gurdaspur
and another

...Appellants

Versus

Swaran Kanta and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASI

Present: Mr. Vivek Chauhan, Advocate
for the applicants-appellants.

AUGUSTINE GEORGE MASI, J. (ORAL)

CM No.11589-C-2019

Prayer in this application is for condonation of delay of
881 days in filing the appeal.

The reasons which have been given in the application for the
delay is that there has been frequent transfers of the Executive Officer,
Panchayat Samiti, Kahnuwan, District Gurdaspur and it is because of such
situation that the appeal could not be filed on time.

Counsel for the applicants has asserted that the officials in the
office did not bring it to the notice of the Executive Officer,
Panchayat Samiti, Kahnuwan, about the judgment going against them before
the Courts below and the appeal was to be filed in the said case. Ultimately
it is on a notice received from the Executing Court that the
Executive Officer, Panchayat Samiti, Kahnuwan, District Gurdaspur, came
to know about the factum of the Courts having decided against the appellant
and thereafter steps have been taken to file the appeal.

Perusal of the said aspect would also show that there has been

no prompt action taken by the office. It is mentioned in paras 3, 4 and 5 of the application as follows:-

- “3. That the deponent came to know about the proceedings only when Execution Application was filed by the respondent and notice/summons in the same were received in the office in December 2018. The deponent thereafter sought information from the office staff and then contacted the counsel before the lower appellate court to verify the status of the appeal which had been filed by the appellants. The counsel took time to verify the status of the case and the appellant was later on informed that the appeal had been partly allowed by the appellate court. The deponent requested the counsel to apply for certified copies of the judgment and decrees dated 04.05.2015 and 24.10.2016 passed by learned Civil Judge (Junior Division), Gurdaspur and Learned ADJ, Gurdaspur respectively. The certified copies of the judgment and decrees were applied by the counsel on 04/02/2019 and the same was handed over to the counsel on 05/02/2019.*
- 4. That the deponent approached the head office alongwith the certified copies of the above said judgment and decrees and sought necessary directions. The matter remained pending in the head office and ultimately the defendant was directed to take a decision in this regard. Accordingly, the deponent approached the counsel for filing of present appeal.*
- 5. That the counsel was not available due to ongoing vacations in the Hon'ble court and the deponent was requested to approach the counsel after 16/06/2019. The deponent, immediately on 17/06/2019 approached the counsel and handed over the relevant record along with certified copies of judgment and decrees dated 04.05.2015 and 24.10.2016 passed by learned Civil Judge (Junior Division), Gurdaspur and Learned ADJ Gurdaspur respectively. The appeal was prepared by the counsel and handed over to the deponent on 22/06/2019. The draft appeal prepared by the counsel was gone through by the deponent and the same after being signed was handed over to the counsel for being filed in the*

Hon'ble High Court on 24/06/2018.”

It would not be out of way to mention here that the challenge in the appeal is limited to the extent of the Courts having granted compound interest on the delayed payments on the part of the applicants-appellants to the respondent, who is widow of an employee of the Panchayat Samiti. It appears that the present appeal has been filed merely for the purposes of washing out the responsibility of not filing the appeal and only a formality is being done by the applicants. The delay in filing the appeal has not been explained and the explanation which has been put forth is not acceptable at all.

The application being without any merit, therefore, stands dismissed.

RSA No.4166 of 2019

In the light of the above, the present appeal stands dismissed as barred by limitation.

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No orders are required to be passed in the present applications as the same have been rendered infructuous in the light of the order passed in the appeal.

September 9th, 2019
Puneet

(AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No