

IN THE HIGH COURT OF PUNJAB AND HARAYANA AT CHANDIGARH

101

**RSA-2030-2015 &
CM-5326-C-2015 &
CM-5327-C-2015**

Date of decision:04.10.2019

KULWANT SINGH

...APPELLANT

VS.

STATE OF PUNJAB AND *OTHERS*

..RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Ajay Bajaj, Advocate,
for Mr. G.L.Bajaj, Advocate,
for the appellant.

AUGUSTINE GEORGE MASIH, J. (ORAL)

CM-5327-C-2015

Despite various opportunities having been granted to the counsel for the appellant to file an additional affidavit of the applicant-appellant explaining the inordinate delay of 322 days in filing the appeal as also granting last opportunity on 23.07.2019, no such affidavit has been filed.

The explanation, which has been given by the applicant-appellant in the application for condonation of delay, is that the applicant-appellant did not receive any message with regard to the decision of the appeal by the Additional District Judge-III. Ferozepur and ultimately, on 20.03.2014 when he enquired about the fate of his first appeal, he was informed that it has already been dismissed on 20.03.2013. He, thereafter,

applied for the copy of the judgment and decree on 21.03.2014 which has been supplied to him on 24.03.2014 and thereafter, counsel was engaged on 04.05.2014 and the appeal filed on 05.05.2014.

A perusal of the said reasons, as given in the application, could not explain the inordinate delay of almost one year which has been spent by him just relaxing and sitting over the matter without even enquiring from the counsel as to the fate of his appeal and he himself admitted that he was aware of the fact that the case has been considered and decided by the Appellate Court. The inaction on the part of the applicant-appellant clearly manifests for the delay even without enquiring from the counsel about the fate of the appeal. The applicant-appellant has not diligently pursued his appeal before the First Appellate Court leading to the inordinate delay of 322 days in filing the appeal which has not been explained as required under the provisions of Section 5 of the Limitation Act.

In view of the above, the present application for condonation of delay of 322 days in filing the appeal stands dismissed.

CM-5326-C-2015 & RSA-2030-2015

In the light of the dismissal of the application for condonation of delay in filing the appeal, the application for condonation of delay in re-filing the appeal as well as the main appeal stand dismissed.

October 04, 2019*pj***(AUGUSTINE GEORGE MASIH)
JUDGE**

Whether speaking/reasoned: Yes/No

Whether Reportable : Yes/No