

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

**RSA No.6988 of 2016 (O&M)
Date of Decision.24.01.2019**

Haryana Urban Development Authority

...Appellant

Vs

Brij Mohan

...Respondent

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Rishab Gupta, Advocate
for the appellant.

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AMIT RAWAL J. (ORAL)

The appellant-HUDA has assailed the concurrent finding of fact whereby the suit of the respondent-plaintiff seeking restraint against the HUDA from charging interest on the installments in the absence of development and provision of amenities, has been decreed by the trial Court and affirmed in the lower Appellate Court.

Mr. Rishab Gupta, learned counsel appearing on behalf of the appellant submitted that three suits of such nature filed by the plaintiffs have already been dismissed and said aforementioned allottees are in appeal. The trial Court mis-interpreted report of the local commissioner with regard to provisions of amenities and therefore, there is abdication.

As far as contention for seeking condonation of delay of 233 days in filing of the appeal, explanation given is that HUDA authorities collected the documents and appointed advocate for the purpose of filing of the appeal and in such process, delay of 233 days occurred. Para 2 of the application reads as under:-

“2. That the appellant after getting the certified copy of

the judgment and decree dated 17.11.2015, the matter placed before the authorities for the purpose of filing of the appeal before this Hon'ble Court. The competent authority sought the approval of the L.R. for filing of appeal before this Hon'ble Court. Thereafter, the matter was placed before the Ld. Advocate General of Haryana for the purpose of filing of the appeal. The Ld. Advocate General of Haryana in the month of June 2016 granted the permission of filing the present appeal. Thereafter, the HUDA authorities collected the documents and appointed the Advocate for the purpose of filing this appeal. But by that time there occurred a delay of 233 days in filing the appeal in this Hon'ble Court. The delay in filing this appeal in this Hon'ble Court is bona fide and unintentional. So it is just and proper to condone the delay of 233 days in filing the appeal before this Hon'ble Court in the interest of justice and equity.”

I have heard learned counsel for the appellant and appraised the paper book. The explanation given in the application is bereft of the plausible reasoning and cannot be said to be bona fide and unintentional. The Hon'ble Supreme Court in **Office of the Chief Post Master General and others Vs. Living Media India Ltd. and another (2012) 3 SCC 563** while dealing with the applications in respect of matters of Government and departments has held as under:-

“29. In our view, it is the right time to inform all the government bodies, their agencies and instrumentalities that unless they have reasonable and acceptable explanation for the delay and there was bona fide effort, there is no need to accept the usual explanation that the file was kept pending for several months/years due to

considerable degree of procedural red tape in the process. The government departments are under a special obligation to ensure that they perform their duties with diligence and commitment. Condonation of delay is an exception and should not be used as an anticipated benefit for the government departments. The law shelters everyone under the same light and should not be swirled for the benefit of a few.”

Resultantly, the appeal is dismissed on the ground of delay only.

**(AMIT RAWAL)
JUDGE**

January 24, 2019

Pankaj*

Whether Reasoned/Speaking Yes

Whether Reportable No