

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

RSA No.2124 of 2018(O&M)
Date of decision: 22.10.2019

Jagiro Devi (deceased) through LRs

... Appellants

Versus

Jaswinder Singh and others

... Respondents

CORAM: HON'BLE MR. JUSTICE ARUN PALLI, JUDGE

Present: Mr. Vineet Chaudhary, Advocate, for the appellants.

ARUN PALLI, J. (Oral)

Suit filed by the plaintiffs-appellants was dismissed by the trial Court vide judgment and decree dated 23.10.2012. And as even the appeal preferred against the said decree failed and was dismissed on 06.08.2015, the plaintiffs are before this Court in Regular Second Appeal.

Concededly, the appeal is time barred, for, it suffers from delay of 687 days. The only explanation to justify the delay that had occurred in filing the appeal, reads thus:

***“2. That the impugned judgment was passed on 06.08.2015 by the ld. ADJ, Ambala and the appellants are rustic villagers and are not aware about the intricacies and procedure of law and are also financially unsound, due to which delay of 687 days have occurred in the filing the present appeal in this Hon’ble court, which neither intentional nor deliberate but due to the afore-stated reasons.*”**

3. That the appellant prays for an apology for not filing the appeal within a limitation period.”

Ex-facie, the explanation sought to be tendered lacks bonafides. The appellants being conscious of their rights had engaged a counsel and filed the present suit. Not just that, post dismissal of their suit, they assailed the decree rendered by the trial Court by way of appeal, which too was dismissed on 06.08.2015. Thus, the version of applicants that they are rustic villagers and were not aware of intricacies and procedure of law, does not inspire confidence, and is rather concocted. Therefore, institution of the present appeal appears to be merely speculative and an afterthought. Needless to assert that impugned judgment and decree, dated 6.8.2015, was passed by the appellate court over four years ago, and in the interregnum, certain valuable rights have also accrued and come to vest in favour of the other side. It would be apposite, at this stage, even to refer to the decision of the Hon'ble Supreme Court in **P.R. Ramchandran Vs. State of Kerala and Anr., AIR 1998 Supreme Court 2276**, wherein it was concluded that law of limitation may hardly affect a particular party but it has to be applied with all its rigor prescribed by statute and the Courts have no power to extend period of limitation on equitable grounds. Likewise, in **N. Balakrishnan Vs. M. Krishnamurthy, (1998) 7 SCC 123**, the Supreme Court had observed that object of fixing the time limit under the Limitation Act is not with purpose to destroy right of the parties but it is founded on public policy. It had been further observed that length of delay is no matter, acceptability of the explanation is the only criterion. Sometimes delay of the shortest range may be uncondonable due to a want of acceptable explanation whereas in certain other cases, delay of a very long range can be condoned as the

explanation thereof is satisfactory. However, as demonstrated hereinabove, the grounds set out in the application do not constitute sufficient cause to condone the gross, inordinate and unexplained delay of nearly two years. Needless to assert that courts of law always yearn and endeavour to decide the *lis* on merits, unless a party owing to its negligence, inaction, willful and deliberate default, deprives itself of such indulgence. Unfortunately, such is the position in the matter at hands.

Accordingly, the application is dismissed. Consequently, the appeal is also dismissed as barred by limitation

(Arun Palli)
Judge

22.10.2019
Rajan

Whether speaking / reasoned:	YES
Whether Reportable:	NO