

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CM-6418-C of 2018 in/&
RSA No.2415 of 2018 (O&M)
Date of Decision : 22.10.2019

Gurmeet Kaur

.....Appellant

Versus

Manjit Kaur and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr. Harinder Pal Singh Ishar, Advocate
for the applicant/appellant.

ARUN PALLI, J. (Oral)

The suit filed by appellant/plaintiff was dismissed by the trial Court vide judgment and decree dated 29.01.2014, and as even the appeal preferred against the said decree failed and was dismissed on 09.12.2016, she is before this Court in Regular Second Appeal.

Concededly, the appeal is time barred for, it suffers from delay of 222 days. The only justification to condone the delay that had occurred in filing the appeal, reads thus:-

“2. That copy of the impugned judgment and decree dated 09.12.2016 passed by the Court of Sh. Manoj Kumar, Addl. Distt. Judge Gurdaspur was applied by the counsel on 15.12.2016 and same was received on 17.01.2017. However, the appellant due to her poverty could not arrange for fee to engage counsel. Therefore, delay of 222 days in filing the appeal occurred.

3. That the delay is bona fide and unintentional and due to reason mentioned above.”

Ex facie, the explanation sought to be tendered lacks bonafides. For, the applicant being fully conscious of her rights and/or for redressal of her grievance, had engaged a counsel and filed the present suit. Not just that post dismissal of the suit on 29.01.2014, she even assailed the decree rendered by the trial Court. Thus, her version that due to poverty, she could not arrange funds to engage a counsel, appears to be wholly false and concocted. It appears for, she had lost before both the Courts, she reconciled with her fate and accepted the impugned judgment and decree. Thus, institution of the present appeal appears to be merely speculative and an afterthought. Needless to assert that impugned judgment and decree dated 9.12.2016 was passed by the appellate court over two years ago, and in the interregnum, certain valuable rights have also accrued in favour of the non-applicant/defendants. 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.

Further, the Bombay High Court in **Kamalbai Narasaiyya Shrimal Vs.**

Ganpal Vithalrao Gavare, 2006 (23) RCR (Civil) 96, observed:-

“.....Secondly, the ground of poverty and helplessness is also too vague and a slippery phraseology used in the application. The petitioners never explained as to when the so called disability was removed and how they surmounted the difficulty at the time of the filing of the appeal at a belated stage after six months. The learned District Judge has observed that mere poverty cannot be a ground for condonation of the delay. One cannot be oblivious of the fact that the grounds for condonation of delay are required to be spelt out clearly and distinctly in the application filed under Section 5 of the Limitation Act.”

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 222 days. 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.

22.10.2019

Manoj Bhutani

(ARUN PALLI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No