

APPEAL FROM ORDER (ST.) NO. 156 OF 2020
WITH
INTERIM APPLICATION NO. 01 OF 2020

Rajender Singh s/o.Harnam Singh Sethi	...	Appellant
V/s.		
I.C.I.C.I. Bank Limited & Anr.	...	Respondents

.....

DATE : 25th February 2020.

3] The record indicates that, the respondent No.1/original plaintiff had instituted the aforesaid Suit in this Court on its Original Side bearing Suit

No. 717 of 2004 for monetary claim against the appellant and the respondent No.2. That the writ of summons of the said Suit was served upon the appellant on 25th April 2008. That on 15th October 2010 it is alleged that the appellant with his covering letter submitted Written Statement with the Registry of this Court. However, the same was not taken on record. In the year 2012, in view of enhancement in pecuniary jurisdiction of the City Civil Court, the Suit No. 717 of 2004 was transferred from High Court to City Civil Court. It further appears from the record that, the Trial Court passed an Order dated 16th January 2019 directing the Suit be proceeded ex-parte against the appellant/original defendant No.2. The appellant thereafter filed present Notice of Motion No. 2541 of 2019 on 26th June 2019 for setting-aside the ex-parte Order dated 16th January 2019 for condonation of delay in filing the present Notice of Motion and for condonation of delay in filing the written statement of the appellant.

As noted earlier, the Trial Court by its impugned Order dated 19th November 2019 has dismissed the said Motion with costs.

The aforestated chronology of events are admitted facts on record and as emerged there from.

4] Perusal of affidavit in support of the present Notice of Motion would indicate that, the appellant has failed to give satisfactory reasons for condonation of such a colossal and inordinate delay in filing the Notice of Motion. Assuming for the sake of arguments that, the contention of the learned

counsel for the appellant to be true that, on 15th October 2010 the appellant along with covering letter submitted his written statement in the Registry of this Court, then also there was delay of about two years in filing the said written statement. The Legislature has prescribed limitation in Order 8 Rule 1 of the Code of Civil Procedure for filing written statement. As noted earlier, after the Trial Court passed ex-parte Order on 16th January 2019 directing the Suit to be proceeded ex-parte against the appellant/original defendant No.2, he has filed the present Notice of Motion on 26th June 2019. If it is considered that the appellant has received writ of summons in the present Suit in the month of April 2008, till today there is a delay of about more than 11 years in filing written statement. Viewing from any angle, there is an inordinate and colossal delay in filing the written statement, which has not been properly, least to say satisfactorily explained by the appellant.

5] Perusal of record and the impugned Order passed by the Trial Court clearly indicates that, the Trial Court has not committed any error while passing the impugned Order.

6] Appeal being de hors of merits is accordingly dismissed.

7] In view of dismissal of Appeal, the Interim Application filed therein does not survive and is accordingly disposed off.