

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

CR No.7462 of 2019 (O&M)

Date of decision: 19th February, 2020

Amarpreet Singh

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Hitesh Verma, Advocate for the petitioner.

Mr. C.L. Pawar, Sr. Dy. Advocate General, Punjab
for the respondent/State.

FATEH DEEP SINGH, J.

The brief background which led to the present revision petition is that the revisionist Amarpreet Singh through his attorney instituted a suit for declaration against the State of Punjab through Principal Secretary, Department of Home (Sic. in fact 'Health') & Family Welfare, Punjab, on 01.05.2015 and on 26.05.2015 the Court of learned Civil Judge (Junior Division), Bathinda passed ex-parte orders against the State leading to passing of ex-parte judgment and decree on 22.04.2016 and thereby decreeing the suit of the plaintiff. Thereafter, the State upon knowing of this, filed an application under Order IX Rule 13 CPC and along with it another application under Section 5 of the Limitation Act seeking condonation of delay in filing the same. The Court of learned

Civil Judge (Jr. Divn.), Bathinda by way of orders dated 30.11.2018 dismissed the application under Section 5 of the Limitation Act and thereby rendering otiose the application under Order IX Rule 13 CPC. The State filed an appeal challenging the said order before the Court of learned District Judge, Bathinda after a delay of 130 days along with an application seeking condonation of delay in filing the appeal. The Court of learned District Judge, Bathinda vide impugned order dated 14.10.2019 allowed the application and condoned the delay in filing the appeal. It is against this order the present revision petition has come about.

The very manner in which the petitioner (then plaintiff) Amarpreet Singh has managed to secure an ex-parte judgment and decree on 22.04.2016, is in itself giving rise to a suspicion that all was not well. Without arraying the office of the Civil Surgeon or the Director Health and Family Welfare, the immediate authority against whom the grievance actually arose, he has rather chosen to arraign only the State and managed within a short span of 25 days an ex-parte order when the process had to be issued by the Court at Bathinda to be served upon an authority placed at Chandigarh, rather demonstrates the undue haste shown by the Court in resorting to such an ex-parte order. Even the conduct of the defendant State is not appreciable and rather is reflective of the apathy, insolence

and reticence to act speedily on such matters resulting in delay of 130 days in filing the appeal before the learned District Judge. In the impugned order, the Court in para No.2 has considered the pleadings of the present respondent, how on each and every date what process was undertaken necessitating adoption of due recourse to law resulting in this delay. The impugned order is well versed and has given a thought to each and every angle and aspect of the matter and has rightly concluded that such a delay is not intentional or willful but is on account of procedural necessities which are to be accomplished before instituting the matter. Learned counsel for the petitioner could not in any manner highlight any undue compassion shown by the learned lower Court and had rather adopted the process that the Court should desist from legalizing injustice on technical grounds and has rightly drawn the conclusion that there has been sufficient explanation forthcoming from the defendant respondent in explaining for this delay. The submissions of learned State counsel could not be displaced by the learned counsel for the revisionist in this regard. Moreover, it is the golden principle of law that a party should not be denied access to justice on hyper-technicalities, especially when there is no overwhelming evidence highlighted by the learned counsel for the revisionist to illustrate any perversity in the findings of the Court below. Rather the Court below has taken a well balanced judicious recourse and

has come to a totally justified conclusion which does not necessitate any interference by this Court. Finding no merit the present revision petition stands dismissed.

(FATEH DEEP SINGH)
JUDGE

February 19, 2020

rps

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No