

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

RSA-9767-2018 (O&M)

Date of decision : 27.02.2020

Chandrawali

...Appellant

Versus

Satbir Singh and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Y.S. Dhaliwal, Advocate and
Mr. K.S. Dhaliwal, Advocate for the appellant.

Mr. Amit Jain, Advocate for respondent No.1.

ANIL KSHETARPAL, J. (ORAL)

CM-18952-C-2018

Prayer in the application is to condone the delay of 8229 days, which is equivalent to more than 22 years, in refiling the present appeal.

In the application, it has been pleaded as under:-

“2. That initially the appeal was filed on dated 18.12.1995 within the period of limitation. However, some objections were raised by the registry and the appeal was returned on dated 02.01.1996. Thereafter, the appeal was refiled on dated 15.01.1996 but the registry raised objections regarding the number and date when the certified copies were applied and with those objections the

appeal was returned on dated 12.02.1996. Thereafter the counsel for the appellant, K.S.Dhaliwal, contacted Sh. Raghubir Singh Hooda Advocate, (now deceased) the counsel at the District Court Rohtak, through whom the case was referred to the counsel in the Hon'ble High Court. Sh. Raghubir Singh Hooda took responsibility to do the needful regarding the above mentioned objections raised by the registry but he did not inform the appellant of the same. However, no instructions were received from Sh. R. S. Hooda regarding re-filing the appeal and even the appellant was not reachable as she did not have any telephone at that time. There was also another connected matter of the appellant which was filed within time and the same was adjourned sine die during the pendency of SLP in the Supreme Court. The appellant was inadvertently under the impression that both her cases have been admitted and they will be taken up after few years once the decision of the Supreme Court comes.

3. *That the connected RSA no. 2118 of 1996 has been decided by this Hon'ble Court vide order dated 03.07.2018 and the matter has been remitted back to the Ld. Court below to decide the same in accordance with the decision of the Hon'ble Supreme Court. Thereafter the appellant, an old illiterate lady aged 85 years, was contacted through a letter and when she came to get a copy of the orders passed in the connected matter, then she inquired about the status of the present case and it came to the light that the present case has not been filed due to the above said confusion. Now the appeal is being re-filed after a delay of 8229 days in re-filing."*

The plaintiff-appellant seeks to enforce her superior rights of

pre-emption in order to defeat the rights of a vendee who has purchased the property through a sale deed dated 26.10.1989. She claims superior right on the ground that she is a co-sharer in the khewat from which some part of land has been sold and, therefore, has a right under the Punjab Pre-Emption Act, 1913. Now the right to pre-empt the land on the ground of co-sharer, has also been omitted by the Statute.

Still further, Hon'ble the Supreme Court has already held that such right is piratical right and it is permissible for the vendee to defeat such right by all legal means.

Reliance in this regard can be placed on the judgment in the case of *Atam Prakash Vs. State of Haryana and others, (1986) 2 SCC 249* and *Than Singh and others Vs. Nandu and others, 1978 PLR 98*.

Keeping in view the fact that delay in refiling, which is huge, has not been explained and there is no equity in favour of the appellant, this Court does not find any good ground to condone the huge delay.

Accordingly, the application for condonation of delay of 8229 days in refiling the appeal is dismissed. Consequently, the main appeal bearing RSA No.9767 of 2018 is also dismissed.

27.02.2020

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No