

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

RSA No. 474 of 2020(O&M)

Date of decision: 4.2.2020

Balwan

.....Appellant

VERSUS

Sunehra and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Sumit Gupta, Advocate for the appellant.

REKHA MITTAL, J. (Oral)

Challenge in the present appeal has been directed against concurrent findings recorded by the Courts whereby suit for possession by way of partition with permanent injunction was decreed by the trial Court declaring share of the parties in the suit property by passing a preliminary decree vide judgment and decree dated 12.11.2014 that came to be affirmed in appeal by the Additional District Judge, Sonapat vide decree and judgment dated 19.05.2018. Along with the appeal, an application for condonation of delay of 488 days in filing the appeal by invoking Section 5 of the Limitation Act, 1963 has been filed. A relevant extract from para 2 of the application, reads as follows:-

“2. That the claimant/appellant was not aware of the fact that any appeal could be filed against the impugned judgments and decrees. However, yesterday when they contacted some other counsel then he informed that against the impugned judgments

and decrees the appeal could be preferred before this Hon'ble Court. Thus the appeal is now being filed and the delay happened due to the above mentioned reasons.”

There cannot be quarrel with the settled position in law that a Court is required to adopt a liberal and non-pedantic approach while dealing with condonation of delay so as to advance substantial justice but at the same time it has been consistently held that a litigant who is not diligent and sleeps over his rights without any explanation, he is not entitled to indulgence in exercise of discretionary jurisdiction of the Court. This apart, a person seeking condonation of delay of 488 days in filing the appeal has to make out a prima facie case that there are sufficient grounds for condoning inordinate delay in filing the appeal.

A plain but careful reading of contents of para 2 extracted hereinbefore would lead to inescapable conclusion that the applicant has failed to prove sufficient grounds for condoning delay of 488 days. That being so, application for condonation of delay is not meritorious and accordingly dismissed. As a natural corollary, the appeal is dismissed being barred by limitation.

FEBRUARY 4, 2020

‘D. Gulati’

(REKHA MITTAL)

JUDGE

Whether speaking/reasoned :

yes/no

Whether reportable :

yes/no