

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

CR-821-2021

Date of decision:-23.8.2021

Dalbir

...Petitioner

Versus

Bharat Bhushan

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.Virendra Rana, Advocate
for the petitioner.

H.S. MADAAN, J.

Case taken up through video conferencing.

The present revision petition is directed against order dated 4.3.2021 passed by District Judge, Mewat in case bearing CA-02-2020 vide which application filed by respondent under Order 41 Rule 3A CPC for condonation of delay has been allowed.

Briefly stated, the facts of the case are that plaintiff Dalbir had brought a suit for recovery against defendant Bharat Bhushan. That civil suit was decreed by learned Additional Civil Judge (Sr.Divn.), Mewat vide judgment and decree dated 8.11.2019. Feeling aggrieved, the defendant had filed an appeal against the judgment and decree passed by

the trial Court. The appeal was filed somewhat belatedly by 25 days on 4.1.2020. An application under Section 5 of the Limitation Act was brought by the defendant/appellant for condonation of delay mainly on two grounds, firstly the gate of safe house of treasury remained locked and further the appellant being poor person could not arrange the Court fee amounting to more than Rs.80,000/-. That application was contested by the respondent/plaintiff. After hearing arguments, the application was allowed by learned District Judge, Mewat vide impugned order dated 4.3.2021. Such order left the respondent/plaintiff aggrieved and he has filed the present revision petition.

I have heard learned counsel for the revisionist/petitioner besides going through the record and I find that there is absolutely no merit in the revision petition.

The operative part of the impugned order for ready reference is being reproduced as under:

It is settled proposition of law that Court has primarily to decide rights of the parties on merits rather than on technicalities. It is also required that sufficient cause must be indicated for each and everyday delay in filing the appeal. The delay in this case in filing the appeal is less than 1 month. The appellant did not slumber over his rights for a long period of year or so. The contention that he remained busy in arranging Court fee, cannot be said to be wholly unfounded. In any case the opposite party can be compensated by way of costs. In this view of the matter, considering totality of circumstances, the delay in filing the

appeal is condoned, subject to costs of Rs.2000/- 50% of the costs shall be deposited with District Legal Service Authority, Nuh, while remaining 50% shall be paid to opposite party. For payment and deposit costs, to come upon after some time.

Here, the impugned order does not suffer from any defect. The order passed by the trial Court is quite, well reasoned, based on proper appraisal and appreciation of correct, factual as well as the legal position. It is certainly not perverse, arbitrary or against the settled legal proposition. It has to be taken into view that it is always desirable to decide a *lis* on merits rather than non-suiting a litigant on a technical point. The rules of procedure are hand maid of justice. Such rules are made to dispense justice. The Courts are required to do substantial justice by adopting somewhat liberal approach with regard to procedural requirements not getting bogged down in the technicalities. Learned District Judge, Mewat was fully justified in passing the order. The appellant has been burdened with costs of Rs.2,000/-, 50% of which going to the revisionist/plaintiff.

Thus, finding no merit in the civil revision petition, the same stands dismissed.

23.8.2021
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No