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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR No.2510 of 2021 (O&M)

GURNAM SINGH

..... Petitioner
V/s.

PARMINDER KAUR AND ORS

.....Respondents

CR No. 1351 of 2021 (O&M)

SANDEEP SINGH

..... Petitioner
V/s.

PARMINDER KAUR AND ORS

.....Respondents

CR No. 1439 of 2021 (O&M)

Date of Decision: 17.12.2021

BALJIT SINGH & OTHERS

..... Petitioners
V/s.

PARMINDER KAUR AND ORS

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Baljinder Singh, Advocate for the petitioner(s).

Mr. Bhupender Banga, Advocate for respondent Nos.1 to 5.

Raj Mohan Singh, J. (Oral)

Vide this common order, CR Nos. 2510 of 2021 titled as
“Gurnam Singh Vs. Parminder Kaur and Others”, CR No. 1351 of 2021
titled as “Sandeep Singh Vs. Parminder Kaur and Others” and CR No.
1439 of 2021 titled as “Baljit Singh and Others Vs. Parminder Kaur and
Others” are being disposed of.

CR-2510-2021

Notice of motion.

Mr. Bhupender Banga, Advocate accepts notice on behalf of contesting respondent Nos.1 to 5.

CR No.1351 of 2021 and CR No.1439 of 2021 are also fixed for arguments today. With the concurrence of learned counsel for the parties, all the aforesaid three cases are being taken up together. Common question involved in the present revision petitions is that appeals filed by the defendants in the civil suit were dismissed by the Lower Appellate Court on the ground of limitation.

In CR No.2510 of 2021, there was delay of 07 months and 14 days in filing of the appeal before the Lower Appellate Court. In CR No.1351 of 2021 and CR No.1439 of 2021, there was delay of 09 months and 14 days in filing of the appeal before the Lower Appellate Court. While dismissing the application for condonation of delay, the Lower appellate Court has also dismissed the appeal as a consequence, thereof. According to learned counsel for the petitioner, the delay was occasioned on account of family problems in the house of Baljeet Singh, Simratpal Singh, Sandeep Singh and Satnam Singh. Lower Appellate Court discarded the ground for condonation of delay by recording that the other defendants namely, Gurnam Singh and Sukhdarshan Singh had not preferred any appeal and therefore, the pleas taken by the petitioners before the Lower Appellate Court, is found to be baseless. The Court also recorded that the particulars of the problems did not come forth on record with reference to date and event and no record was produced. On the aforesaid ground, the Lower

Appellate Court dismissed the application for condonation of delay and so as the appeal.

Learned counsel for the petitioner submits that the Lower Appellate Court ought to have condoned the delay as the meritorious matter cannot be thrown at the verge of technicalities.

Learned counsel for the petitioner relied upon the judgments of Hon'ble Supreme Court in "**Esha Bhattacharjee Vs. Managing Committee of Raghunathpur Nafar Academy and others**" 2013(4)CivCC 399 and "**State of Rajasthan and Another Vs. Bal Kishan Mathur (Deceased) through LRs and Others**" 2013(4)CivCC 805 and further submits that the Lower Appellate Court ought to have adopted a pragmatic approach in dealing with the issue of limitation in appeal. Learned counsel for the petitioner also relied upon the ratio of judgment of "**Lanka Venkateshwaru (Dead) by LRs Vs. State of Andhra Pradesh and Others**", 2011(4) Supreme Court Cases 363 to show that the delay occasioned due to insufficiency, inaptitude and negligence of Government Pleader, can be condoned.

In "**Collector, Land Acquisition Anantnag Vs. Mst. Katiji**", (1987) 2 SCC 107, learned Apex Court has also observed that there cannot be any uniform criteria to assess bona fide of the person in explaining each and every hours/minutes and seconds in causing delay. The merits of the case cannot be sacrificed at the threshold of technicalities. The delay is not such which will deprive the petitioner

from exercise of discretion by the Court in his/ her/ their favour while condoning the delay. No third party interest has crept in till date.

Learned counsel for the respondents very candidly submits that the contesting respondents have no objection in case delay in filing the appeal before the Lower Appellate Court is condoned, subject to imposition of requisite cost(s). Learned counsel for the contesting respondents submits that the suit is for damages on account of murder of Gurpreet Singh who was husband of respondent No.1.

In view of aforesaid fact, learned counsel for respondent Nos.1 to 5 submits that cost(s) to the tune of ₹50,000/- per revision petition be imposed and this case be referred back to the Lower Appellate Court for decision on merits.

In view of the aforesaid, the delay in filing appeal before the Lower Appellate Court can be condoned subject to payment of cost(s) by the petitioner in a sum of ₹50,000/- per revision petition payable to respondent Nos.1 to 5.

Ordered accordingly.

It is made clear that payment of cost(s) shall be the condition precedent for granting indulgence in favour of the petitioner by the Lower Appellate Court.

17th December, 2021

Sonia Puri

**(RAJ MOHAN SINGH)
JUDGE**

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