

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

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**Civil Revision No.1329 of 2021 (O&M)
Date of Decision: July 19, 2021**

Dr. Radhika G. Arora

.....Petitioner.

VERSUS

Dr. Bhim Sen and others

.....Respondents.

CORAM:- HON'BLE MR. JUSTICE G. S. SANDHAWALIA

Present: Mr. V.K. Sandhir, Advocate
for the petitioner.

(The proceedings are being conducted through video
conferencing, as per instructions)

G.S. SANDHAWALIA, J.(Oral)

Present civil revision has been filed under Article 227 of the
Constitution of India, challenging the orders dated 20.09.2016 (Annexure
P-3) and 23.05.2017 (Annexure P-4).

The plaintiff-petitioner is aggrieved against non-grant of
injunction by the Courts below. The present petition has been filed on
11.05.2021 after a period of almost four years. Nothing has been averred in
the revision petition as to what prevented the petitioner to file this petition
after such a delay.

Counsel for the petitioner has vehemently tried to convince this
Court that on account of situation of COVID-19, petitioner could not
approach this Court in time and delay has arisen.

The above contention of counsel for the petitioner is without

any basis. Situation of COVID-19 only occurred in March, 2020 and for a period of three years prior to that, no efforts have been made to challenge the impugned orders. Merely because the petition has been filed under Article 227 of the Constitution, the period of limitation, which is prescribed under Section 115 of CPC, whereby as such, orders are to be challenged within the prescribed period, cannot be ignored. In such situation, this Court is of the opinion that present petition is patently time barred and therefore, is not liable to be entertained on merits. Law is clear that a litigant, who does not stand up for his right within the prescribed period, is not to be given any benefit as such due to his own conduct.

The law of limitation is based primarily on the ground that the parties should seek their remedy promptly and the life span is fixed for legal remedies for redressal of the legal injuries. Unending period for launching the remedy may lead to unending uncertainty. Thus, the law of limitation is to see that the parties do not resort to dilatory tactics to keep their remedy alive. Thus, it is a salutary guideline that 'sufficient cause' is to be made out even otherwise for condonation of delay, which in the present case is absolutely missing and therefore, the delay cannot be overlooked in a pedantic manner.

The Apex Court in *P.K. Ramachandran v. State of Kerala (1997) 7 SCC 556*, held that law of limitation may harshly effect a particular party but it has to be applied with all its rigor when the statute so prescribed and the Courts have no power to extend the period of limitation on equitable grounds.

Principles of Limitation have been laid down in *Esha*

and others 2013(12) SCC 649, which had also arisen out of the condonation of delay against an interim order passed by the Single Judge, which had been entertained by the Division Bench. Resultantly, it has been held that the concept of liberal approach does not enable a party to seek totally unfettered free play and thus has to be an objective reasoning and not on individual perception. Relevant portion reads as under:-

“15. From the aforesaid authorities the principles that can broadly be culled out are:

- i) There should be a liberal, pragmatic, justice-oriented, non-pedantic approach while dealing with an application for condonation of delay, for the courts are not supposed to legalise injustice but are obliged to remove injustice.
- ii) The terms “sufficient cause” should be understood in their proper spirit, philosophy and purpose regard being had to the fact that these terms are basically elastic and are to be applied in proper perspective to the obtaining fact-situation.
- iii) Substantial justice being paramount and pivotal the technical considerations should not be given undue and uncalled for emphasis.
- iv) No presumption can be attached to deliberate causation of delay but, gross negligence on the part of the counsel or litigant is to be taken note of.
- v) Lack of bona fides imputable to a party seeking condonation of delay is a significant and relevant fact.
- vi) It is to be kept in mind that adherence to strict proof should not affect public justice and cause public mischief because the courts are required to be vigilant so that in the ultimate eventuate there is no real failure of justice.
- vii) The concept of liberal approach has to encapsule the conception of reasonableness and it cannot be allowed a totally unfettered free play.

- viii) There is a distinction between inordinate delay and a delay of short duration or few days, for to the former doctrine of prejudice is attracted whereas to the latter it may not be attracted. That apart, the first one warrants strict approach whereas the second calls for a liberal delineation.
 - ix) The conduct, behaviour and attitude of a party relating to its inaction or negligence are relevant factors to be taken into consideration. It is so as the fundamental principle is that the courts are required to weigh the scale of balance of justice in respect of both parties and the said principle cannot be given a total go by in the name of liberal approach.
 - x) If the explanation offered is concocted or the grounds urged in the application are fanciful, the courts should be vigilant not to expose the other side unnecessarily to face such a litigation.
 - xi) It is to be borne in mind that no one gets away with fraud, misrepresentation or interpolation by taking recourse to the technicalities of law of limitation.
 - xii) The entire gamut of facts are to be carefully scrutinized and the approach should be based on the paradigm of judicial discretion which is founded on objective reasoning and not on individual perception.
 - xiii) The State or a public body or an entity representing a collective cause should be given some acceptable latitude.
16. To the aforesaid principles we may add some more guidelines taking note of the present day scenario. They are: -
- a) An application for condonation of delay should be drafted with careful concern and not in a half hazard manner harbouring the notion that the courts are required to condone delay on the bedrock of the principle that adjudication of a lis on merits is seminal to justice dispensation system.
 - b) An application for condonation of delay should not be dealt with in a routine manner on the base of individual philosophy which is basically subjective.

- c) Though no precise formula can be laid down regard being had to the concept of judicial discretion, yet a conscious effort for achieving consistency and collegiality of the adjudicatory system should be made as that is the ultimate institutional motto.
- d) The increasing tendency to perceive delay as a non-serious matter and, hence, lackadaisical propensity can be exhibited in a non-challant manner requires to be curbed, of course, within legal parameters.”

Keeping in view the above principles, this Court is of the opinion that the delay of three years, which has been unexplained in preferring the revision against the interim orders, whereby injunction has been declined to the petitioner, is not liable to be entertained and accordingly, the revision petition is dismissed in limine on the said ground.

July 19, 2021

Sachin M.

**(G. S. SANDHAWALIA)
JUDGE**

Whether speaking/reasoned: *Yes/No*

Whether Reportable: *Yes/No*