
HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR No.1357 of 2021 (O&M)

Date of decision:31.08.2021

Ramesh and others

...Petitioners

Versus

Khushlesh and others

...Respondents

CORAM : Hon'ble Mr. Justice G.S.Sandhawalia

Present: Mr. Ravi Kant Sharma, Advocate,
for the petitioners.

(The proceedings were conducted through video
conferencing, as per instructions.)

G.S. Sandhawalia, J. (Oral)

The present revision petition, which is barred by 18 days in its filing, has been filed against the order of the Additional Sessions Judge, Sonipat, dated 25.02.2021, whereby he had condoned the delay of 75 days in filing the appeal of the plaintiff-respondents.

Counsel for the petitioners has submitted that the ground for condoning the delay, as such, was on account of the fact that the counsel did not have contact number of the legal representatives of the original plaintiff Shishpal, who had died during the pendency of the suit and, thus, the delay had taken place in filing the appeal against the judgment and decree of the trial Court dated 07.05.2019.

Counsel for the petitioners has vehemently argued that the application for impleading legal representatives of deceased plaintiff Shishpal had been filed before the trial Court itself by the said counsel along with an affidavit dated 08.01.2019 (Annexure P-1) and, therefore, it did not

lie in the mouth of the legal representatives of the deceased plaintiff Shishpal that the counsel was not aware of the details of the legal representatives.

Perusal of the application filed by the legal representatives of the deceased plaintiff Shishpal would also go on to show that the legal representatives, i.e. widow and children, were residing in Delhi and the deceased plaintiff Shishpal had expired on 18.12.2018.

In such circumstances, it is apparent that the delay had occurred on account of the parties not being able to keep in touch with the counsel at Sonapat and, thus, minimal delay of 75 days has occurred in filing the appeal. The Lower Appellate Court had rightly observed that the rules of procedure are handmaid of justice and the lis should be decided on merits. It is settled principle of law that each and every day is not to be explained and only in case of *mala fide* intention and inordinate delay, the Court should not condone the delay. Reliance in this regard can be placed upon a judgment of the Supreme Court rendered in the case of **H. Dohil Construction Co. (P) Ltd. vs. Nahar Exports Ltd. and another**, 2015(1) SCC (Civil) 646.

Thus, in my considered view, this is not a fit case for exercising supervisory jurisdiction of this Court under Article 227 of the Constitution of India and to interfere in the well reasoned order passed by the Lower Appellate Court.

Accordingly, the delay of 18 days in filing the present revision petition is condoned but the main revision petition is dismissed.

August 31, 2021
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(G.S.Sandhawalia)
Judge

Whether speaking/reasoned:
Whether Reportable:

Yes/No
Yes/No