

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

**CR-1634-2018 (O&M)  
Date of decision : 22.11.2022**

Satpal & Anr.

... Petitioner(s)

Versus

The Makhu Zimindara Coop. Marketing-cum-  
Processing Society Ltd & Ors.

... Respondent(s)

**CORAM : HON'BLE MRS. JUSTICE ALKA SARIN**

Present : Mr. Umesh Kumar Kanwar, Advocate for the petitioners.

Mr. S.K. Arora, Advocate for respondent No.1.

**ALKA SARIN, J. (ORAL)**

The present revision petition under Article 227 of the Constitution of India has been filed challenging the order dated 06.01.2018 (Annexure P-5) whereby the Additional District Judge, Ferozepur allowed the application under Section 5 of the Limitation Act, 1963.

Learned counsel for the petitioners would contend that the plaintiff-respondent No.1 had knowledge of the judgment and decree passed by the Trial Court and that he had applied for a certified copy on 22.10.2014 and the same was supplied to him on 05.11.2014. However, the appeal was filed only on 05.08.2016. It is further the contention that in the appeal filed by the petitioners herein, the plaintiff-respondent No.1 was already appearing. It is further the contention that there is no explanation forthcoming in the application for condonation of delay in filing the appeal.

Per contra, learned counsel for the plaintiff-respondent No.1 has contended that in a first appeal, liberal approach ought to be adopted. It is further the contention that delay in filing the appeal was not extra-ordinary and since a cross appeal was already pending, no prejudice would be caused to the petitioners and they could easily be compensated by way of costs. In support of his arguments, learned counsel has relied upon the judgment in the case of **Kanwar Lal Vs. State of Haryana & Anr. [2003 (1) RCR (Civil) 345]**.

Heard.

In the present case, in the application for condonation of delay in filing the appeal it has been stated that the suit of the plaintiff-respondent No.1 for declaration and possession was dismissed by the Trial Court and it was only in the month of July 2016 that the plaintiff-respondent No.1 came across a sale deed which was in Urdu and when he got the same translated he came to know that the sale deed pertained to the suit land and hence, he filed the appeal along with an application for additional evidence.

In the case of **Kanwar Lal** (supra), it has been held as under :

*“8. I am further of the view that the appellant-petitioner must have acquired knowledge of the order dated 30.1.1996 on 12.7.1996 when-he-received a notice from the respondents calling upon him to deposit the deficit amount by 15.7.1996. If the period of one month is counted from that date, then the filing of appeal on 6.8.1996 would be well within time as provided by Sub-section (4) of Section 47-A of the Act. This liberal approach of granting condonation of delay has to be followed in view of the fact that right of one*

*appeal should always be available to a litigant especially when the delay is not extraordinary and satisfactory explanation has been tendered. Order in this case was passed on 30.1.1996 and the appeal had been filed on 6.8.1996. Such an approach has also been recommended by the Supreme Court in a recent judgment in the case of Ram Nath Sao alias Ram Nath Sahu and others v. Gobardhan Sao and others, 2002(2) RCR (Civil) 337 (SC) : (2002)3 SCC 195. The observations of their Lordships read as under :-*

*"This it becomes plain that the expression "sufficient cause" within the meaning of Section 5 of the Act or Order 22 Rule 9 of the Code or any other similar provision should receive a liberal construction so as to advance substantial justice when no negligence or inaction or want of bona fides is imputable to a party. In a particular case whether explanation furnished would constitute "sufficient cause" or not will be dependent upon facts of each case. There cannot be a strait-jacket formula for accepting or rejecting explanation furnished for the delay caused in taking steps. But one thing is clear that the courts should not proceed with the tendency of finding fault with the cause shown and reject the petition by a slipshod order in over- jubilation of disposal drive. Acceptance of explanation furnished should be the rule and refusal, an exception, more so when no negligence or inaction or want of bona fides can be imputed to the defaulting party. On the other hand, while considering the matter the courts should not lose sight of the fact that by not taking steps within the time prescribed a valuable right has accrued to*

*the other party which should not be lightly defeated by condoning delay in a routine-like manner. However, by taking a pedantic and hyper-technical view of the matter the explanation furnished should not be rejected when stakes are high and/or arguable points of facts and law are involved in the case, causing enormous loss and irreparable injury to the party against whom the lis terminates, either by default or inaction and defeating valuable right of such a party to have the decision on merit. While considering the matter, courts have to strike a balance between resultant effect of the order it is going to pass upon the parties either way." (emphasis added)*

*A similar approach has been recommended by the Supreme Court in the case of Collector, Land Acquisition v. Katiji, (1987)2 SCC 107; State of Bihar v. Kameshwar Prasad Singh, (2000)9 S.C.C. 94 : 2000(2) S.C.T. 889. Therefore, this revision petition deserves to be allowed."*

Keeping in view the fact that sufficient cause has been given in the application for condonation of delay as well as the fact that a cross appeal filed by the petitioners is already pending, I do not find any reason to interfere with the order passed by the Court below. The present revision petition which is devoid of any merit is accordingly dismissed. Pending applications, if any, also stand disposed off.

Dismissed.

( ALKA SARIN )  
JUDGE

22.11.2022  
Yogesh Sharma

NOTE: Whether speaking/non-speaking: Speaking  
Whether reportable: YES/NO