

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

109

**CR-2996-2017 (O&M)
Date of Order: 19.04.2022**

RAMDULARA

..Petitioner

Versus

TARSEM LAL & ORS

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Jatinder Singla, Advocate
for the petitioner.

Mr. Akshay Kumar Goel, Advocate
for respondents.

ANIL KSHETARPAL, J(Oral)

This revision petition has been filed assailing the correctness of order passed by the Additional District Judge (First Appellate Court) refusing to condone the delay of 83 days in filing the first appeal. The Court has noticed that the respondent had served a copy of the caveat application on the appellant on 17.12.2014, but the appellant applied for the copy and filed the appeal without explaining the delay of each day.

The first appeal is a valuable right available to a party to challenge the judgment of the trial Court. The First Appellate Court is a Court of fact and law. The First Appellate Court is required to re-appreciate the evidence and pass appropriate orders. It has been repeatedly held that while entertaining the first appeal, the Court is required to take a pragmatic view of the matter. In the present case, the Court ought to have condoned the delay, subject to the payment of cost. The delay was also not colossal.

In the considered view of this Court, the First Appellate Court has taken a myopic view of the matter. The learned trial Court had decided the rights of the parties with respect to the agricultural land measuring 11

kanals and 04 marlas. The petitioner is a resident of village. The appellant had asserted that his counsel did not inform him. The aforesaid plea was supported by the affidavit of the appellant.

Keeping in view the aforesaid facts, the order dated 05.10.2016, is set aside. The first appeal filed by the appellant is restored to its original number. The delay in filing the first appeal is condoned. The First Appellate Court is directed to decide the appeal on merits within a period of six months, from today.

The parties through their counsel are directed to appear before the First Appellate Court on 02.05.2022.

All the pending miscellaneous applications, if any, are also disposed of.

April 19th, 2022

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**(ANIL KSHETARPAL)
JUDGE**

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