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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CR-7155-2018 (O&M)
Date of Decision: 16.09.2022**

Jaswant Kaur and others Petitioners
Versus
Daljit Kaur and others Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present:- Mr.N.S. Sodhi, Advocate for the petitioners.

HARKESH MANUJA, J. (ORAL)

Present revision petition has been filed against the order dated 30.08.2018 passed by learned Additional District Judge, SAS Nagar (Mohali); whereby an application praying for condonation of delay of 47 days in filing the first appeal at the instance of plaintiff-respondent No.2 has been allowed.

The facts in the present revision petition are that claiming herself to be owner of the suit property, respondent No.2 filed a suit for possession by way of ejectment against petitioners and respondent No.1(proforma respondent). The suit was dismissed by the learned Civil Judge (Junior Division), Kharar, vide judgment and decree dated 15.01.2018. Aggrieved against the same, respondent No.2 filed first Appeal before the Court of learned District Judge, SAS Nagar, Mohali. Along with the appeal, an application seeking condonation of delay was also filed. It is the said application which has been allowed by the learned trial Court while passing the impugned order.

Challenging the condonation of delay in favour of respondent No.2, present revision petition has been filed by the petitioner.

Learned counsel for the petitioner submits that the discretion exercised by learned trial Court while condoning the delay of 47 days is perverse. He further submits that in the application, respondent No.2 neither given details to support the averment; nor even any document to substantiate the contentions made therein were appended. Though notice of the present revision petition was issued on 16.11.2019, to be served upon respondent No.2 through her counsel before the learned trial Court, but as per the office report, counsel representing respondent No.2 before the learned trial Court has submitted that since she has been residing abroad i.e. in U.K., she has not been in touch with him. Learned counsel further submitted that he shall inform respondent No.2 as and when she makes a contact with him through telephone.

A perusal of the report sufficiently shows that respondent No.2 has been duly put to notice of the present revision petition, however, no one appears on her behalf.

Having heard learned counsel for the petitioner and gone through the paper-book, I find no merit in the contention raised by him. A perusal of the application filed at the instance of respondent No.2 shows that she has sufficiently explained the reason for delay of 47 days in filing the appeal. She categorically stated that since she was residing in U.K. and the delay in filing the appeal has been on account of sending the signed appeal as well as power of attorney to

her counsel. To my mind, reason mentioned in the application appears to be a sufficient cause for exercising discretion in her favour while considering the application under Section 5 of the Limitation Act.

Be that as it may, the passing the impugned order has not caused any serious prejudice to the rights of the petitioners. Learned trial Court has only favoured the cause of justice by allowing the application filed at the instance of respondent No.2, and the first appeal has merely been ordered to be decided on merits.

In view of the reasoning recorded hereinabove, I do not find any merit so as to interfere with the impugned order dated 30.08.2018 passed by learned Additional District Judge, SAS Nagar (Mohali). Consequently, the revision petition is dismissed.

Pending application(s), if any, shall also stand disposed of.

September 16, 2022
sanjay

(HARKESH MANUJA)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>