

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(103)

CWP No. 2601 of 2020

Date of Decision : 22.03.2022

Dharam Singh

...Petitioner

Versus

The State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. P.C. Yadav, Advocate for the petitioner.

Mr. Raman Kumar Sharma, Addl. Advocate General, Haryana.

Harsimran Singh Sethi J. (Oral)

The present petition has been filed for setting-aside the order dated 10.09.2019 (Annexure P-5) by which, the revision, though titled as Second Appeal, has been dismissed on the ground of limitation.

Learned counsel appearing on behalf of the petitioner argues that the revision petition was filed against the order dated 07.03.2012 (Annexure P-3) and the same can be preferred within a period of 45 days from the conveying of the said order and as the revision petition was preferred before respondent No. 1 on 19.04.2012 and on the office copy, the same was received vide Diary No. 1364/19.04.2012, the same could not have been dismissed on the ground of limitation.

On the last date of hearing, following order was passed :-

“Learned State counsel seeks another opportunity to

verify the facts whether, the diary number as 1364/19.04.2012, which has been depicted in Annexure P-4 as the receipt of the second appeal, is correct or not.

On his request, adjourned to 22.03.2022.”

Today, learned State counsel submits that though the record has been checked but the record pertaining to Diary No. 1364 dated 19.04.2012 could not be located. Learned State counsel very fairly submits that sometimes, the record is maintained by the personal staff of respondent No. 1, who is posted at a relevant time and may be, after the said officer is posted out, the record is also taken by the said staff along with them for their references.

Keeping in view the above, especially when, the petitioner is presenting a fact of filing the revision petition before respondent No. 1 on a particular date along with Diary No. 1364 dated 19.04.2012 and the respondents have not been able to controvert the same being incorrect, the benefit of doubt should be extended to the petitioner having filed the revision petition within the timeframe as prescribed.

Keeping in view the said, the impugned order dated 10.09.2019 (Annexure P-5) is set-aside with a direction to respondent No. 1 to decide the appeal preferred by the petitioner (Annexure P-4) may kindly be decided in accordance with law preferably on merits of the case, if permissible. As the petitioner had filed the appeal in the year 2019, it will be appreciated if the same is disposed of within a period of six weeks from today.

For deciding the said appeal in case, the original copy is not available with the respondents, the copy already attached as Annexure P-4 with this writ petition be treated as a copy of the appeal for passing the

appropriate order.

Petition is allowed in above terms.

March 22, 2022
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No