

In the High Court of Punjab and Haryana, at Chandigarh

Civil Revision No. 7900 of 2016

Date of Decision: 29.07.2022

Manjit Singh

... Petitioner(s)

Versus

Taran Singh and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Abhinav Gupta, Advocate
for the petitioner(s).

Mr. Narinder Singh Lucky, Advocate
for the respondent No.1.

Mr. Yagyaang Ajay, Advocate
for Mr. Kawaljyot Singh, Advocate
for the respondent No.2.

Anil Kshetarpal, J.

1. The learned First Appellate Court has taken a myopic view of the matter while refusing to condone the delay of five months in filing the first appeal.

2. A civil suit for partition of residential house between the family members was decided on 23.09.2013. While filing the first appeal, the petitioner filed an application filed under Section 5 of the Limitation Act, 1963, alleging that his counsel did not disclose about the decision of the suit, consequently, he engaged another counsel and applied for a certified copy of the judgment.

3. The application for supply of a certified copy was submitted on

22.02.2014, whereas, it was delivered on 06.03.2014. The appeal was filed

on 17.03.2014. The right to first appeal is an important right available with the party to get the matter decided by a superior Court on re-appreciation of the evidence. The Courts, while deciding the applications for condoning the delay, should take a pragmatic view of the matter. On reading of the order passed by the learned First Appellate Court, it is evident that the Court has dismissed the application while observing that the explanation furnished by the petitioner is neither reasonable nor appropriate. A party to the litigation cannot be expected to monitor the progress of the case on each day particularly when he has already engaged a counsel for the same purpose.

4. Keeping in view the aforesaid facts, the present revision petition is accepted. The order dated 20.07.2016, passed by the learned First Appellate Court, is set aside. The first appeal, filed by the petitioner, is ordered to be restored to its original number. The learned First Appellate Court is directed to decide the case on merits. The delay in filing the first appeal shall stand condoned.

5. The parties, through their learned counsel, are directed to appear before the learned First Appellate Court, on 10.08.2022.

(Anil Kshetarpal)
Judge

July 29, 2022
“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No