

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

CR No.2531 of 2022 (O&M)

Date of Decision: 07.07.2022

Anil Kumar

.....Petitioner

Versus

Life Insurance Corporation of India and others

.....Respondents.

BEFORE: HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA

Present:- Ms. Chhavi Sharma, Advocate
for the petitioner.

MEENAKSHI I. MEHTA, J.(Oral)

By way of the instant revision petition, the petitioner (here-in-after to be referred as 'defendant No.1') lays challenge to the order dated 19.05.2022 passed by learned Additional District Judge, Yamuna Nagar at Jagadhari (for short 'the lower Appellate Court') whereby the application (Annexure P-4) moved by him (defendant No.1) for seeking restoration of the appeal as well as the application filed by him for seeking condonation of the delay in filing application Annexure P-4, have been dismissed.

2. Bereft of unnecessary details, the facts leading to the filing of the present revision petition, are that respondent No.1 (here-in-after to be referred as 'the plaintiff') filed a civil suit against defendant No.1 and proforma respondents-defendants No.2 to 4 for seeking a decree for the recovery of the sum of Rs.20,71,510.85Ps. and the same was decreed against

defendant No.1 vide the judgment dated 23.02.2011 (Annexure P-1). Defendant No.1 preferred an appeal to assail the above-said judgment and also the decree passed in pursuance thereof but vide the order dated 26.05.2012 (Annexure P-3), the said appeal was dismissed in default. Then, he moved application Annexure P-4 for seeking restoration of the appeal as well as the application praying therein for condonation of the delay in filing the said application (Annexure P-4) which have been dismissed vide the impugned order.

3. I have heard learned counsel for the petitioner-defendant No.1 in this revision petition and have also perused the file carefully.

4. Learned counsel for the petitioner-defendant No.1 contends that the delay on the part of defendant No.1 in moving the application for restoration of the appeal was not an intentional one and it being so, he should be afforded one fair opportunity to pursue his appeal before the lower Appellate Court, on merits and therefore, the impugned order be set aside.

5. However, I do not find the afore-raised contention to be tenable at all because a perusal of order Annexure P-3 shows that the appeal preferred by defendant No.1 was dismissed in default on 26.05.2012 and as is explicit from the impugned order Annexure P-5 itself, the application for seeking restoration of the said appeal was filed on 14.07.2017, i.e after more than five years. Though, defendant No.1 has tried to explain this delay by raising the plea that his counsel did not apprise him about the fate of his appeal and he came to know about the

dismissal of the same on 13.07.2017 only while appearing before the Court in connection with a criminal appeal but however, he has not explained the reason for not contacting his counsel to enquire about the status or outcome of his appeal. Moreover, the Apex Court has recently observed in **Maji Sannemma @ Sanyasirao Vs. Reddy Sridevi and others** 2022 (1) RCR (Civil) 505, that “*the Court cannot inquire into the belated and stale claims on the ground of equity and where no explanation was offered by the respondents-appellants before the High Court for condonation of the huge delay of 1011 days in preferring the Second Appeal, the condonation of the said delay was liable to be set aside*”. These observations are fully applicable to the present case and in the light of the same, it is explicit that no ground for condoning the delay of long period of five (05) years, is made out in the present case.

6. As a sequel to the fore-going discussion, it follows that the impugned order Annexure P-5, as handed down by the lower Appellate Court, does not suffer from any illegality, irregularity, infirmity or perversity, so as to call for any interference by this Court.

7. Resultantly, the revision petition in hand, being *sans* any merit, stands dismissed.

July 07, 2022
pooja

(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No