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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Civil Revision No.3747-2022 (O&M)
Date of Decision:23.09.2022

Punjab State Civil Supplies Corp. Ltd. and another

.. Petitioners

Vs.

Gurpritam Singh and another

..Respondents

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Maninder Singh Saini, Advocate for the petitioners.

...

Manoj Bajaj, J. (Oral)

Petitioners (plaintiffs) have filed this revision petition to challenge the order dated 03.03.2021 (Annexure P-1), whereby their application under Section 5 Limitation Act, 1963 seeking condonation of delay in filing first appeal against the judgement and decree dated 21.09.2015 passed by Civil Judge (Jr. Divn.), Zira in Civil Suit No.311/2013 titled as "*Punjab State Civil Supplies Corporation Ltd. and another Vs. Gurpritam Singh and another*", has been dismissed.

Learned counsel has argued that a suit for recovery of Rs.21,97,315/- (Rs.14,40,862.80/- principal + Rs.7,56,453/- interest) was filed against defendants, namely, Gurpritam Singh and Devinder Singh, both Public Distribution Clerks, PUNSUP, and the same was decreed on 21.09.2015 against defendant No.1 alone and qua defendant No.2, the suit was dismissed. Through this decree, the plaintiffs were held entitled to recover an amount of Rs.5,53,754.20/- along with interest @ 9% w.e.f.

February, 1997 till filing of the suit. Further, *pendente lite* and future

interest @ 6% p.a. was also awarded to the decree holder till the actual realization of the amount. He submits that aggrieved against the said judgment, the petitioners preferred their first appeal along with an application seeking condonation of delay, which has been dismissed vide impugned order dated 03.03.2021. Learned counsel submits that since there are arguable points in the appeal, therefore, it would be in the interest of justice, if, the delay in filing the appeal is condoned and the appeal is adjudicated on merits. He prays that the impugned order dated 03.03.2021 (Annexure P-1) be set aside and the application filed under Section 5 Limitation Act, 1963 be allowed.

During the course of hearing, it is not disputed by learned counsel that against the judgment and decree dated 21.09.2015 passed by Civil Judge (Jr. Divn.), Zira, defendant No.1-Gurpritam Singh, had filed his appeal bearing No.135 of 10.11.2015 and the same was decided on 24.11.2017. Learned counsel has fairly conceded that the said appeal was contested by the plaintiffs, who were represented by their counsel.

After hearing the learned counsel and considering the above background, this Court finds that plaintiff (petitioner) did not avail the remedy of appeal in time, therefore, is required to explain it by giving sufficient reasons. Admittedly, the decree dated 21.09.2015 sought to be challenged in first appeal was passed in a suit filed by the petitioners, therefore, it cannot be presumed that it was not in their knowledge, particularly when the petitioners also contested the appeal against the said decree, which was filed by judgment debtor (defendant no.1).

During the course of hearing, learned counsel has produced the copy of petitioners' application under Section 5 Limitation Act, 1963 filed

along with the appeal, and a perusal of the same reveals that, it runs into only two pages, which does not even contain the exact number of days of delay. It is settled law that the appellant/applicant is required to explain each and every day's delay in filing the appeal, whereas the background of the case shows that the plaintiffs were throughout aware of the decision sought to be challenged by way of appeal and the reasoning offered in the application is insufficient. Apart from this, it shows the conduct of the plaintiffs, who were not diligent enough to pursue their remedy of appeal. Further, a reading of the impugned order shows that the Addl. District Judge, Ferozepur has carefully examined the background of this case, including the relevant dates on which the application for certified copy was moved, the date of filing the appeal as well as the application etc., and it does not suffer from any illegality or impropriety.

Resultantly, the revision petition fails and is dismissed.

23.09.2022
Jasmine Kaur

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No