

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

120

CR-146-2020

Date of decision: 02.12.2022

SUNNY ABRAHAM

..Petitioner

Versus

M/S A-2A INFRA ENGINEERING LTD AND ANR

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Ankit Aggarwal, Advocate
for Mr. Vivek Khadwal, Advocate
for the petitioner.

Mr. Kunal Dawar, Advocate
for respondents.

ANIL KSHETARPAL, J(Oral)

The petitioner's first appeal has been dismissed by the First Appellate Court while refusing to condone the delay of approximately 10 months. It has been held that the assertions made in the application for the condonation of delay are entirely vague and no supporting documents to establish the illness of the petitioner have been produced on record. This revision petition has been filed challenging the correctness of the aforesaid order.

On a careful perusal of the application under Section 5 of the Limitation Act, 1963, filed before the First Appellate Court, it is evident that the petitioner was a workman. His services were dispensed with by the respondent. He has stated that he is a resident of Kerala, whereas, the litigation was pending at Gurugram. It has been stated that after the dismissal of the suit, he went to his native place for arranging the amount for litigation but he fell ill. He had to sell gold ornaments of his wife to arrange the litigation expenses.

The view taken by the First Appellate Court is myopic. The First Appellate Court is a last Court for the re-appreciation of facts and evidence coupled with the law. In the considered view of this Court, the conclusion drawn by the First Appellate Court is not appropriate. Before passing the order, the First Appellate Court should have deeply examined the contents of the said application.

Hence, the order dated 24.09.2019, is set aside. The delay in filing the first appeal shall stand condoned.

The first appeal is restored to its original number.

The parties through their learned counsels are directed to appear before the First Appellate Court on 10.01.2023.

All the pending miscellaneous applications, if any, are also disposed of.

December 02nd, 2022

Ay

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned : *Yes/No*
Whether reportable : *Yes/No*