

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

240

**CR-1810-2018(O&M)
Date of decision: 24.01.2023**

INDERJIT KAUR

..Petitioner (s)

Versus

HARJINDER SINGH

..Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: Mr. Inderjit Sharma, Advocate for the petitioner.

NIDHI GUPTA, J (Oral)

Learned counsel for the petitioner submits that the petitioner's Appeal against judgment and decree dated 29.08.2013 has been dismissed only on the grounds of delay. The delay of 2 years in filing Appeal, is admitted by learned counsel.

Brief facts are that the respondent/plaintiff had filed a suit for permanent injunction which was decreed in favour of the respondent/plaintiff vide judgment and decree dated 29.08.2013 (Annexure P1). It is the petitioner's case that he came to know about the said decision only on 16.10.2015 as her counsel in trial Court i.e. Mr. Randhir Kaushal, Advocate, had assured her that the case being of civil nature therefore, her personal appearance is not required and he will inform her as and when required.

However, learned counsel is unable to controvert finding of the learned Appellate Court in this regard, as recorded in para 8 of the impugned order which is reproduced hereinbelow:-

“As the cross-examination of witness is real test of trustfulness, so above testimony of the applicant is to be

adjudged only on the touch stone of her cross-examination. In the course of her cross-examination, she has admitted that after engaging Mr. Randhir Kaushal, as her advocate in the year 2010, she had been appearing personally before the lower court, along with her counsel. She has also admitted that had filed one another suit against Harjinder Singh, wherein Harjinder Singh had placed certified copy of the instant judgment on record of the said case in the year 2014 and that the said judgment was shown to her in the court on her evidence, despite all this. Inderjit Kaur had also admitted that despite gaining knowledge of judgment in the other suit titled as 'Inderjit Kaur Vs Harjinder Singh', she had not applied for certified copy of the judgment for the purpose of filing appeal. All this shows that the applicant/appellant had been negligent in applying for certified copy of the judgment. The above conduct of hers cannot be said to be a sufficient cause for delayed filing of the appeal. This also shows that the plea taken by her in her application and evidence is not tenable. Even if, Mr. Randhir Kaushal, advocate or her counsel had not given information to the applicant regarding passing of the judgment on 29.8.2013, but she had gained knowledge qua this very judgment in the other suit. So, she was supposed to file appeal, as she had gained knowledge of the judgment in question in the other suit. For these very reasons, the applicant cannot put whole of the blame upon her counsel. This clearly shows that the applicant has not been able to prove sufficient and reasonable cause for delayed filing of the appeal. So, issue No.1 is decided against the applicant and in favour of respondent.”

Ld. Counsel for the petitioner is unable to controvert the above facts. Accordingly, it is clearly established that the petitioner had knowledge of the judgment and decree dated 29.08.2013 in Appeal.

As such, I find no error and no ground to interfere in the impugned order.

Dismissed.

(NIDHI GUPTA)
JUDGE

24.01.2023

ashok

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No