

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(273) CM-1129-C-2022 in/and
RSA-394-2020 (O&M)
Date of Decision : February 20, 2023

State of Haryana and others .. Appellants

Versus

Purshotam Lal .. Respondent

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Ms. Vibha Tewari, Assistant Advocate General, Haryana,
for the applicant-appellants.

Mr. Rakesh Nagpal, Advocate, for the respondent.

HARSIMRAN SINGH SETHI J. (ORAL)

CM-1129-C-2022

Present application has been filed for preponement of the main
appeal i.e. RSA No.394 of 2020.

Notice of the application was already issued to the learned
counsel for the respondent.

Learned counsel for the respondent raises no objection for the
grant of prayer as raised in the present application.

Keeping in view the facts mentioned in the application, the
same is allowed and the main appeal i.e RSA No.394 of 2020 is taken up for
hearing today.

CM-1037-C-2020

Present application has been filed seeking condonation of delay

of 273 days in filing the appeal.

Notice of the application was issued to the other side.

Mr. Rakesh Nagpal, Advocate, appears on behalf of the respondent.

Learned counsel for the appellants argues that delay in filing the appeal is genuine as the file remained pending with the authorities concerned so as to opine whether the present case is fit for appeal or not and by the time, the Department decided to file the appeal, there was a delay of 273 days in filing the appeal.

Learned counsel for the respondent submits that no valid justification has come on record that the delay which has occurred in filing the accompanying appeal, was beyond the control of the appellants or the same was bona fide. Learned counsel for the respondent further submits that even otherwise, the decree in question has already been satisfied in the execution, hence, once the benefit awarded by the Court below has already crystallized and extended in favour of the respondent, application for condonation of delay at this stage and that too without any valid justification, may kindly be rejected.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

Only reason given for condonation of delay of 273 days is that there were certain documents which were not on record so as to opine whether the present case is a fit case for appeal or not. In case, the appellants intended to file an appeal, nothing prevented the Department to expedite their opinion rather than to wait for 273 days beyond limitation

period just to make up their mind whether they intend to file an appeal or not. Reason being extended for condonation of delay is not a good ground keeping in view the judgment of the Hon'ble Supreme Court of India in ***Civil Appeal No. 2474-2475 of 2012 titled as Office of the Chief Post Master General and others Vs. Living Media India Ltd. and another, decided on 24.02.2012.***

As per the said judgment, each day's delay has to be counted so as to arrive whether delay in filing the appeal is bona fide or the same was due to the laxity on the part of the litigant and in the present case, the delay has not been explained and on the basis of the judgment of the Hon'ble Supreme Court of India, the same has rightly been declined. The relevant paragraphs of the said judgment are as under:-

“2. The following issues arise for consideration:

a) Whether the Office of the Chief Post Master General has shown sufficient cause for condoning the delay of 427 days in filing SLPs before this Court. Depending on the outcome of the above issue, other issues to be considered are:

b) Whether the impugned advertisement inserted in the Reader's Digest issue of December, 2005 is in conformity with the requirement of law.

c) Whether the Department has made out a case for interference under Article 136 of the Constitution of India to reopen concurrent findings of fact rendered by the High Court.

13. In our view, it is the right time to inform all the Government bodies, their agencies and instrumentalities that unless they have reasonable and acceptable explanation for the delay and there was bona fide effort, there is no need to accept the usual explanation that the file was kept pending for several months/years due to considerable degree of procedural

red-tape in the process. The Government departments are under a special obligation to ensure that they perform their duties with diligence and commitment. Condonation of delay is an exception and should not be used as an anticipated benefit for Government departments. The law shelters everyone under the same light and should not be swirled for the benefit of a few. Considering the fact that there was no proper explanation offered by the Department for the delay except mentioning of various dates, according to us, the Department has miserably failed to give any acceptable and cogent reasons sufficient to condone such a huge delay. Accordingly, the appeals are liable to be dismissed on the ground of delay.

14. In view of our conclusion on issue (a), there is no need to go into the merits of the issues (b) and (c). The question of law raised is left open to be decided in an appropriate case. In the light of the above discussion, the appeals fail and are dismissed on the ground of delay. No order as to costs.

Even otherwise, learned counsel for the applicant-appellants has not been able to dispute the fact that the decree in question has already been executed in favour of the respondent-plaintiff. That being so, once the rights have already been crystallized and keeping in view the fact that there is no genuine reason for condonation of delay, the present application seeking condonation of delay of 273 days in filing the appeal, is dismissed.

RSA-394-2020

As the application seeking condonation of delay of 273 days in filing the appeal is dismissed, present appeal also stands dismissed.

CM-1038-C-2020 and CM-5622-C-2021

As the main appeal is dismissed, present applications also stand dismissed.

CM-5618-C-2021, CM-5620-C-2021 and CM-5621-C-2021

As the main appeal has been dismissed, present applications stand disposed of.

February 20, 2023
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No