

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

**RSA No.73 of 2021 (O&M)
Date of Decision: 16.11.2023**

Kishan Singh (Since deceased) through his LRs & others

...Appellants

Versus

Shri Chand and others

...Respondents

CORAM: *HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA*

Present:- Mr. Jasmer Singh Rozera, Advocate
 for the LRs of the appellants.

 Mr. Rishav Jain, Advocate
 for the respondents.

MEENAKSHI I. MEHTA, J. (Oral)
CM No.650-C of 2021

By way of this application, the applicants-LRs of the appellants (here-in-after to be referred as 'the applicants') have prayed for condonation of the delay of 619 days in filing the above-captioned Regular Second Appeal.

2. It is worth-while to mention here that as per the report of the Registry, the actual period of delay in filing the afore-said appeal (RSA), after excluding the period of Covid-19 relief, comes out to be 280 days.

3. Reply has already been filed on behalf of the respondents.

4. I have heard learned counsel for the applicants as well as learned counsel for the respondents on the instant application and have also perused the file carefully.

5. Learned counsel for the applicants contends that the above-said delay on the part of his clients in filing the appeal is not an intentional one

because the appellants (now deceased) were more than 75 years old and had not been keeping good health and therefore, they could not keep track of the outcome of the first appeal moved by them and on 21.09.2019, they came to know about the judgment and decree passed by the Lower Appellate Court in the said appeal on 11.03.2019 and obtained the certified copies of the same and though they had filed an appeal in this Court earlier also but the same had been withdrawn due to some errors in its draft and in these circumstances, the applicants deserve the relief, as prayed for in the present application.

6. Per-contra, learned counsel for the respondents argues that the plea qua the illness of the appellants as advanced by the applicants to explain the afore-said delay, is not tenable as they (applicants) have not placed any document on the file to establish it and hence, this application be dismissed.

7. It is worth-while to mention here that the applicants have not placed even an iota of material on the file for substantiating their above-discussed plea qua the illness of the appellants, to justify the afore-said delay. Even otherwise, in normal course of events, it seems highly improbable that any prudent litigant would not keep in touch with his counsel to enquire about the fate of the legal proceeding initiated by or pending against him and would afford to remain oblivious of the same, at the cost of losing his right to resort to the appropriate legal remedy in the eventuality of any judgment/order that may be passed against him by the Court. It being so, mere bald averments, as canvassed by the applicants in the instant application, do not suffice at all to plausibly explain the above-referred delay in filing the appeal and rather, the same has to be construed to be an inordinate one. Resultantly, the application in hand, being devoid of any merit, stands dismissed.

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As a sequel to the dismissal of the afore-mentioned application as moved by the LR's of the appellants for seeking condonation of the delay in filing the appeal, it follows that the appeal in hand also deserves dismissal, Hence, the present appeal and the afore-indicated Miscellaneous Applications, stand dismissed accordingly.

16.11.2023
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(MEENAKSHI I. MEHTA)
JUDGE

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