

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

116

CR-1070-2023 (O&M)

DATE OF DECISION: 16.02.2023

VIJAY KUMAR AND ANR.

... Petitioner (s)

Versus

NEELAM SINGLA AND OTHERS

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present: Mr. Naresh Chhokar, Advocate
for the petitioners.

ANUPINDER SINGH GREWAL, J. (ORAL)

The applicant/petitioners have challenged the impugned order dated 10.11.2022 (Annexure P-4) passed by the Additional Judge, Barnala whereby his application for condonation of delay of 1 year 4 months has been dismissed and impugned judgment and decree dated 06.09.2016 (Annexure P-2) passed by the Civil Judge (Senior Division), Barnala whereby the suit of the plaintiffs/petitioners was dismissed.

Learned counsel for the petitioners submits that the petitioners were not aware of the dismissal of their suit as they were not informed by their counsel. They immediately, upon learning of the dismissal of the suit in the year 2018, had promptly filed appeal along with an application for condonation of delay which should have been decided on merits.

Heard.

The suit had been filed by the plaintiffs/petitioners for partition. The defendant No.1 is the widow of the deceased-brother of the plaintiff while the other defendants are their children. The suit had been dismissed by the

trial Court by holding that the plaintiffs were not in joint possession of the property with the defendants as the property had already been partitioned and the parties had constructed their houses.

I am unable to accept the contention of the counsel that the delay ought to have been condoned for the reason that the petitioners had been duly represented by their counsel. The suit had been dismissed on merits after considering the evidence which had been led by the plaintiffs and the defendants. The petitioners had also filed another civil suit and they had been pursuing the same along with the instant suit. It was enjoined upon the plaintiffs to have filed the appeal within the period of limitation. It is true that ordinarily delay ought to have been condoned where sufficient cause has been shown and the case be heard and decided on merits. However, in the instant case, the petitioners had been pursuing not only the instant case but other civil suit as well before the Courts at Barnala and therefore it cannot be countenanced that they were not aware of the dismissal of the suit. In the event of their not being informed about the dismissal of the suit by their counsel, they ought to have proceeded against the counsel including filing of a complaint which they have admittedly not done.

Consequently, I do not find any merit in this petition which stands dismissed.

Civil miscellaneous application(s), if any, also stands disposed of.

(ANUPINDER SINGH GREWAL)
JUDGE

16.02.2023

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