

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Sr. No.124

Case No. : CM-5135-C-2023 in/and
RSA-1382-2023 (O&M)

Date of Decision : August 31, 2023

Babu Ram and others		Appellants
vs.		
Sita Ram		Respondent

CORAM : HON'BLE MR. JUSTICE GURBIR SINGH.

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Present : Mr.S.K. Liberhan, Advocate
for the appellants.

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GURBIR SINGH, J. :

1. The present appeal has been filed along with application for condonation of delay of 1926 days in filing the present appeal.
2. The brief facts, as culled out from the paper-book, are that the respondent filed a suit for permanent injunction restraining the appellants from interfering in possession of the respondent over the suit land. On the basis of evidence recorded during the trial, suit of the respondent was decreed. Appeal filed by the appellants against the said judgment and decree was dismissed by learned Appellate Court vide judgment and decree dated 10.09.2014.
3. Learned counsel for the applicants/appellants submits that in fact, appellant no.3 Piara Ram was pursuing the case. He suddenly expired.

Neither the remaining appellants nor any of the family members had any contact with the counsel, who was looking after the case in the Appellate Court. No counsel advised them to file the appeal first before this Court. Even the counsel engaged by the appellants namely Inderjit Singh Saluja, Advocate did not guide them to file Regular Second Appeal before this Court, while perusing the paper-book of appeal filed before learned Collector, Sub-Divisional Magistrate, Patran, District Patiala, which was inter alia dismissed on the ground of non-filing of Regular Second Appeal. The appellants applied on 20.12.2021 for getting certified copies of judgment dated 10.09.2014 and received the same on 24.12.2021. Then they contacted the counsel for filing the present Regular Second Appeal. So, in these circumstances, the delay of 1926 days in filing the appeal is neither intentional nor deliberate. Reliance in support of all the aforesaid contentions has been placed on the judgments of Hon'ble Supreme Court in **B. Madhuri Goud vs. B. Damodar Reddy** reported as **2012(12) SCC 693**, **Collector, Land Acquisition, Anantnag & Another vs. Mst. Katiji and others** reported as **AIR 1987 SC 1353**, **Wadhya Mal vs. Prem Chand Jain and others** reported as **AIR 1982 SC 18** and also on a judgment of Orissa High Court in **United India Insurance Co. Ltd. vs. Labhanyabati Dev and others** reported as **ACC 2012 1180**. So, it has been prayed that the delay in filing the present appeal be condoned.

4. I have heard learned counsel for the appellants and perused the case file.

5. The reason for not filing the appeal is that one of the appellants

i.e. appellant no.3 Piara Ram, who was pursuing the case, has expired and none was aware about the counsel, who was pursuing the appeal before the First Appellate Court. The date of death of Piara Ram is not disclosed in the application for condonation of delay. There are two more appellants namely Babu Ram and Raghbir Ram @ Bira Ram. There is no explanation in the application as to why they failed to file the appeal within limitation. The judgment passed by the learned Trial Court dated 31.07.2013 shows that Babu Ram stepped into the witness box as DW-1. So, it is not believable that he was not aware about the case and had no contact with the counsel engaged in their case. The version given by the applicants/appellants is completely an after-thought. No doubt, the Courts are required to adopt a liberal approach in the matters of condonation of delay in filing appeals but when a litigant files an application for condonation of delay on false and frivolous facts, then the Courts are definitely not bound to take into consideration the same. Rules of limitation are meant to see that parties do not resort to dilatory tactics. If explanation given by party does not sound to reason and patently found to be after-thought, then delay cannot be condoned. When reasons given by party are concocted, lacks bona fide or partly is negligent, then delay cannot be condoned. I draw support from a judgment of Hon'ble Supreme Court in Maniben Devraj Shah vs. Municipal Corporation of Brihan Mumbai reported as 2012(3) RCR (Civil) 73. There should be some end to the litigation and there should be finality to the judgments passed by the Courts. In civil litigation, there should be a 'full-stop' at certain point of time. Party should not be allowed

to drag litigation without any reason. In case Collector, Land Acquisition, Anantnag (supra), the Court held that the States cannot be given step-motherly treatment. In case of Wadhya Mal (supra), there were some ex-parte proceedings. It was held therein that the owners was misled as to preference of appeal. In case of Labhanyabati Dev (supra), there was delay in filing of cross-appeal. Said authorities are distinguishable on facts and ratio of said authorities cannot be applied to the facts of case in hand.

6. Keeping in view all the facts and circumstances of the case, the application for condonation of delay in filing the appeal stands dismissed. Accordingly, the appeal is also dismissed being barred by limitation.

7. Pending applications, if any, shall stand disposed of along with this judgment.

August 31, 2023
monika

(GURBIR SINGH)
JUDGE

Whether speaking/reasoned ?	Yes/No.
Whether reportable ?	Yes/No.