

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CR-3700-2019 (O&M)

Reserved on : 6.12.2023

Date of Decision: 7.12.2023

Haryana Warehousing Corporation

....Petitioner

VERSUS

Jagdamba Rice Mills and others

....Respondents

CORAM:- HON'BLE MR. JUSTICE KARAMJIT SINGH

Argued by : Mr. S.K.Mahajan, Advocate,
for the petitioner.

Mr. Munish Kumar Garg, Advocate and
Mr. Tanuj Goyal Tohana, Advocate,
for respondents No.1 to 6.

KARAMJIT SINGH, J.

Present civil revision petition has been filed by the petitioner/plaintiff against order dated 5.12.2018 (Annexure P-2) whereby the application filed by the petitioner seeking condonation of delay in filing Civil Appeal No.38 of 2015 was dismissed along with the main appeal being filed beyond the period of limitation.

2. Brief facts of the case are that the petitioner filed suit for recovery of the amount detailed in the plaint against the respondents. The suit was contested by the respondents and on completion of evidence, the suit was dismissed by the Court of Civil Judge, Junior Division, Yamuna Nagar at Jagadhri vide judgment and decree dated 12.2.2015. The petitioner being aggrieved filed appeal against the said judgment and decree of the trial Court before the Court of Additional District Judge, Yamuna Nagar at Jagadhri on 24.4.2015. Along with the said appeal, an application under

Section 5 of the Limitation Act was also filed by the petitioner seeking condonation of delay in filing the appeal. The said application was contested by the respondents. The Court of Additional District Judge, Yamuna Nagar at Jagadhri dismissed the application filed under Section 5 of Limitation Act along with the main appeal vide impugned order dated 5.12.2018 (Annexure P-2). The petitioner has filed the present revision petition against the aforesaid impugned order (Annexure P-2).

3. I have heard the counsel for the parties.

4. Counsel for the petitioner submits that the the appeal in question was filed by the petitioner against the judgment and decree dated 12.2.2015 passed by the learned trial Court; that the petitioner applied to get certified copy of the said judgment of the trial Court on 15.2.2015 and the certified copy was prepared on 21.2.2015 and was supplied to the petitioner on 25.2.2015 and the appeal was to be filed by 24.3.2015 as per prescribed period of limitation. It is further submitted that the petitioner is a State Government Undertaking and the appeal was filed on 24.4.2015 after getting necessary instructions and along with the appeal, an application under Section 5 of Limitation Act was also filed seeking condonation of delay of 30 days in filing the appeal. Counsel for the petitioner further submits that the delay in filing the appeal was fully explained by the petitioner but the appellate Court dismissed the application as well as appeal with the observations that the petitioner failed to show any sufficient cause of delay in filing the appeal. It is further submitted that there were sufficient grounds to condone the delay in filing the appeal but the same were overlooked by the Court concerned while passing the impugned order. So, prayer is made that the present petition be allowed and delay in filing the

appeal be also condoned.

5. Counsel appearing on behalf of the respondents, while supporting the impugned order has *inter alia* contended that there was sufficient delay in filing the appeal and the petitioner failed to explain the same and thus, the appellate Court rightly passed the impugned order (Annexure P-2).

6. I have considered the submissions made by the counsel for the parties.

7. Undoubtedly, the trial Court dismissed the suit for recovery filed by the petitioner vide judgment and decree dated 12.2.2015 (Annexure P-1). It appears that the petitioner applied to get its certified copy on 15.2.2015 and the same was supplied to it on 25.2.2015 and the period of limitation of one month in filing the appeal expired on 24.3.2015 whereas the appeal against the judgment (Annexure P-1) was filed on 24.4.2015 (Annexure P-3) and along with the appeal, an application under Section 5 of Limitation Act was also filed seeking condonation of delay of 30 days in filing the appeal. The said delay of 30 days in filing the appeal cannot be said to be an inordinate delay. Furthermore, expression 'sufficient cause' is to be employed to enable the Courts to apply the law in a meaningful manner which sub-serves the ends of justice. The Courts are not to take a pedantic approach and should proceed in a pragmatic manner while dealing with the issue with regard to condonation of delay. In the instant case, the petitioner was not supposed to explain each and every day's delay to the Court. The petitioner, who has lost before the trial Court, ought to have been given fair and reasonable opportunity to pursue its first appeal which has been dismissed vide impugned order (Annexure P-2) by the first

appellate Court at the very threshold by observing that that the same was time barred. Refusal to condone the delay could also result in a meritorious matter being thrown out at the very initial stage. Making a justice oriented approach from this perspective, there was sufficient cause for condoning the delay in filing of the appeal in the present case. In this context, reference be made to the decision of Hon'ble Supreme Court of India in **Collector, Land Acquisition, Anantnag and another v. Mst. Katiji and others** 1987 AIR SC 1353.

8. For the foregoing reasons, impugned order dated 5.12.2018 (Annexure P-2) dismissing the appeal before it as time barred is hereby set aside. Delay in filing the appeal is condoned. The matter is sent back to the first appellate Court to dispose of the appeal on merits after affording opportunity of hearing to both the sides.

9. The present civil revision petition is allowed accordingly.

(KARAMJIT SINGH)
JUDGE

December 7, 2023

Paritosh Kumar

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No