

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

CR-1884-2022(O&M)

Reserved on:-3.7.2023

Date of Pronouncement:-5.7.2023

Dharmender

...Petitioner

Versus

SDO(OP), Sub Division, UHBVNL, Kharkhoda, District Sonipat and ors.

...Respondents

**CORAM: HON'BLE MR.JUSTICE H.S.MADAAN**

Present: Ms.Varuna Singh, Advocate  
for the petitioner.

Mr.Prateek Mahajan, Advocate with  
Mr.Vasu Gupta, Advocate  
for the respondents.

\*\*\*\*

**H.S. MADAAN, J.**

1. Being challenged in this revision petition is the order dated 11.3.2022 passed by Additional District Judge, Sonapat vide which he had dismissed the application for condonation of delay of 169 days in filing of civil appeal and as a result the appeal was dismissed being time barred.

2. Briefly stated, facts of the case are that plaintiff Dharmender, who is revision petitioner before this Court, had filed a civil suit for declaration and permanent injunction against defendants i.e. SDO (OP), Sub Division, UHBVNL, Kharkhoda, District Sonapat and others contending that he is a consumer of electricity supplied by the defendants; the electricity meter on the wall outside premises of the plaintiff was found in broken condition and on being informed officials of defendants

inspected the meter on 31.5.2017; a new meter was installed by officials of defendants on 22.7.2017; subsequently a notice was sent to the plaintiff on the allegations that plaintiff was consuming the electricity more than the sanctioned load thereby indulging in theft of electricity and plaintiff was asked to pay penalty of Rs.8,44,512/- and Rs.9,000/-. Feeling aggrieved, the plaintiff had brought the suit in question.

3. The suit was resisted by the defendants by filing written statement raising various legal pleas, on merits asserting that plaintiff was indulging in theft of electricity by way of tampering the meter and was caught red handed by the checking party, therefore, penalty was rightly imposed upon him and suit should be dismissed. Issues on merits were framed. The plaintiff was afforded several opportunities to lead evidence but he failed to examine even a single witness inasmuch as did not appear in the witness-box himself to get his statement recorded. No document was also produced in evidence. Therefore, the evidence of plaintiff was closed under Order 17 Rule 3 CPC and thereafter the suit was dismissed by the trial Court of Additional Civil Judge (Sr.Divn.), Kharkhoda vide judgment and decree dated 17.1.2020.

4. Feeling aggrieved, the plaintiff had preferred an appeal before District Judge, Sonapat but it was filed belatedly by 169 days. An application under Section 5 of the Limitation Act was filed for condonation of delay contending that the previous counsel representing the appellant/plaintiff had not informed the appellant/plaintiff regarding passing of impugned judgment and decree, therefore delay was not intentional or wilful, as such it be condoned.

5. The application was resisted by the respondents.
6. Vide the impugned order the prayer for condonation of delay was rejected and consequently the appeal was dismissed being time barred, leaving the appellant/plaintiff aggrieved and he has approached this Court by way of filing the present revision petition.
7. On being given notice, the respondents put in appearance through counsel.
8. I have heard learned counsel for the parties besides going through the record and I find that there is absolutely no merit in the revision petition.
9. It needs to be taken into consideration that revision petitioner was accused of indulging in theft of electricity and penalty was imposed upon him for the said reason by the defendants. The revision petitioner/plaintiff had challenged that action of defendants by way of filing the suit but he failed to prosecute the suit in a proper and appropriate manner inasmuch as he did not bring on record even an iota of evidence to support his version. He himself did not step into the witness-box to support his case, therefore, his evidence was closed by order and suit was dismissed by the trial Court.
10. Thus, it comes out that revision petitioner/plaintiff has been grossly negligent and careless in prosecuting the suit and his such approach continued even when he had filed the appeal. He did not bother to file the appeal within stipulated period, rather it was filed belatedly by 169 days. No cogent or convincing reason could be explained for such delay in approaching the Appellate Court. The reason mentioned in the

application under Section 5 of the Limitation Act seeking condonation of delay that previous counsel for the plaintiff did not inform him regarding the passing of judgment and decree by the trial Court does not seem to be convincing and plausible. It is for a litigant to keep in touch with his counsel so as to prosecute his case properly. The blame cannot be shifted to the counsel for not keeping litigant, who had engaged him informed with regard to progress of the case.

11. Though the counsel for the revision petitioner tried to render an explanation that on account of breaking out of Covid-19 Pandemic, revision petitioner could not contact his counsel and get the appeal filed in time and she had referred to order passed by the Apex Court in Miscellaneous application No.21 of 2022 etc. with regard to cognizance for extension of limitation. But this order does not help the revision petitioner in any manner for the reason that no such plea has been taken in the application under Section 5 of the Limitation Act and similarly before learned Additional District Judge, Sonapat, no submission in that regard has been made. Learned Additional District Judge, Sonapat in the impugned order has observed that copy of judgment and decree attached with the grounds of appeal had been prepared after expiry of period of limitation of 30 days and no plausible explanation had been given as to why the appellant had not contacted his counsel for such a long period. The story set up by the plaintiff/appellant in the application was not found to be trustworthy.

12. Learned counsel for the respondents has also referred to various judgments in support of his contention that without cogent and

convincing reasons having been provided by the applicant, delay in filing of an appeal should not be condoned. The first judgment referred to by him was **Sagufa Ahmed & Ors. Versus Upper Assam Plywood Products Pvt. Ltd. and others, 2021(2) SCC 317** by the Supreme Court wherein it was observed that appellants cannot claim benefit of order in which Supreme Court in its order enlarged period up to which delay can be condoned. He has further referred to judgment passed by a Division Bench of this Court in LPA-301-2020(O&M) titled **'State of Haryana Versus Ram Rattan and others'** and other cases, wherein it was observed that in absence of furnishing of sufficient or satisfactory explanation for condonation of delay, the delay cannot be condoned. In the third judgment i.e. **P.K. Ramachandran Versus State of Kerala, 1997(4) RCR(Civil) 242** referred to by learned counsel for the respondents by the Supreme Court, it was observed that law of limitation has to be applied with all its rigour when the statute so prescribes and the Courts have no power to extend the period of limitation on equitable grounds.

13. The impugned order passed by the Additional District Judge, Sonapat is quite detailed and well reasoned and it does not suffer from any illegality or infirmity and is not having any element of arbitrariness or perversity. The revisional jurisdiction of this Court is quite limited and considering the facts and circumstances of the case, there is no reason to interfere with the impugned order by way of exercising the revisional jurisdiction.

14. Finding no merit in the revision petition, the same stands dismissed.

Since the main revision petition has been dismissed, the miscellaneous application(s), if any, stand disposed of accordingly.

5.7.2023

(H.S.MADAAN)

Brij

JUDGE

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

**Whether reportable : Yes/No**