

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CR No.2756 of 2022 (O&M)

Reserved on : 30.01.2023

Date of Decision: 08.02.2023

M/s Larsen and Toubro Ltd. (Construction) and AnotherPetitioners

VERSUS

Sunil KaliaRespondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Rajesh Narang, Advocate for
Mr. Alankar Narula, Advocate for the petitioners.

ALKA SARIN, J.

The present revision petition has been filed impugning order the dated 18.05.2022 dismissing the application of the defendant-petitioners seeking condonation of delay in filing the appeal.

The brief facts relevant to the present *lis* are that the plaintiff-respondent filed a suit for recovery of Rs.4,58,088/- on account of delayed payment along with interest *pendente lite* @ 18% per annum and future interest @ 18% per annum from the date of decision till realization. The suit was contested by the defendant-petitioners and vide judgment and decree dated 20.08.2019 passed by the Trial Court the suit was partly decreed. An appeal was preferred by the defendant-petitioners after delay of 479 days. It was averred in the application seeking condonation of delay that because of the inadvertent mistake on the part of the staff of the counsel the certified copy, which was applied for on 21.08.2019 and supplied on 09.09.2019, could not be handed over to the defendant-petitioners and only when the execution petition was filed the said fact came to their notice. The application for condonation of delay was contested by the plaintiff-

respondent averring that the certified copy of the judgment and decree appended with the appeal was applied for on 14.12.2020 and the same was delivered on 17.12.2020. It was further averred that the application seeking condonation of delay and the affidavit were signed on 04.12.2020 at Chandigarh and attested in Delhi without disclosing the address of the deponent. It was further averred that there was no explanation for the delay in filing the appeal. The First Appellate Court dismissed the application seeking condonation of delay after holding that the application as well as the appeal was not filed by the competent person and there was no resolution of the company in favour of the person who had filed the application and the appeal.

Learned counsel for the defendant-petitioners has candidly admitted that the appeal was filed without the resolution of the company. He, however, states that there was a genuine mistake on the part of the staff of the counsel and hence the certified copy, which was applied for on 21.08.2019, was not handed over to the defendant-petitioners.

The story as set up by the defendant-petitioners falls flat inasmuch as along with the appeal a certified copy of the judgment and decree of the Trial Court was appended which was applied for on 14.12.2020 and the same was delivered on 17.12.2020. There is no explanation forthcoming as to why the judgment and decree of the Trial Court, which had purportedly been applied for on 21.08.2019 and was alleged to have been prepared on 09.09.2019, was not appended with the appeal. Learned counsel for the defendant-petitioners has also not been able to give any cogent reason or explanation for the same. There is no

explanation also coming forward for the appeal having been filed without a proper resolution in favour of Mr. Rajeev Sahajpal.

In view of the above, I do not find any illegality or infirmity in the order passed by the First Appellate Court. The present revision petition being devoid of any merits is accordingly dismissed. Pending applications, if any, also stand disposed off.

08.02.2023
jk

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO