

Sr. No.298

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

**CM-323-C-2022 in/and
RSA-162-2022 (O&M)
Date of decision: 17.05.2023**

Municipal Council, Rewari

...Appellant

Vs.

Krishan Gopal and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Mukesh Kumar Verma, Advocate
for the appellant.

ARUN MONGA, J. (ORAL)

For convenience, parties herein are addressed as per the recitals before learned trial Court.

2. Having suffered concurrent adverse findings by the two Courts below, defendant (appellant herein) is in second appeal before this Court assailing Ld. Trial Court judgment and decree dated 15.04.2011, as upheld by Ld. First Appellate Court vide its judgment and decree dated 18.12.2013, decreeing the suit for permanent injunction restraining the defendants from demolishing any part of suit property.

3. There is a colossal delay of 2115 days in re-filing the present appeal against the concurrent adverse findings rendered by Ld. Courts below. The lackadaisical attitude of the applicant/appellant in re-filing the appeal after almost 6 years of raising the objections by registry of this Court seems unusual. The matter remained pending with the counsel for such a

long period and thereafter suddenly one fine day, they wake up from deep slumber and found that second appeal was not followed up.

4. To justify the delay, learned counsel would make a feeble attempt to take the plea of intervening pandemic period. However, in my opinion, even if the Covid period is deducted from the aforesaid delay in refiling the appeal, the delay of 5 years is still there, which cannot be countenanced mechanically and in routine manner.

5. The Court must consider whether there is a genuine reason or not before delay is condoned. Massive delay is to be construed as acquiescence and thus an uncondonable delay. In the present case, the judgment and decree was passed by learned Trial Court in the year-2011 and even the first appeal was dismissed in the year-2013 and second appeal was filed in the year 2022. The delay is more than six years and the reasons are neither candid nor convincing. If a litigant does not pursue his remedy vigilantly and promptly, Court cannot come to its rescue. There is no point in keeping the instant matter pending for an unspecified period, already 12 years have elapsed from the date of passing of order(s) by learned Trial Court.

6. Reference may also be had to judgment of the Supreme Court in **Office of the Chief Post Master General & others v. Living Media India Ltd. & another'** reported in **2012(2) SCT 269**, wherein it was held that in an appeal filed on behalf of the State or its instrumentalities, unless a reasonable and acceptable explanation for the delay is given and there was *bona fide* effort on the part of appellants, the usual explanation that the file

was kept pending for several months/years due to considerable degree of procedural red-tape in the process, is not to be accepted.

7. Under these circumstances, I am of the view that appellant has not provided any convincing reasons for the purpose of condoning the colossal delay of 2115 days in refiling the appeal and the appeal is liable to be dismissed on the ground of delay.
8. In the light of the above discussion, application for condonation of delay stands dismissed. Since delay in re-filing the appeal has not been condoned, the appeal is also dismissed being barred by limitation.
9. Pending application/s, if any, shall also stand disposed of.
10. No order as to costs.

(ARUN MONGA)
JUDGE

May 17, 2023
ashish

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