

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

CR-4441-2019(O&M)

Date of decision:-27.2.2023

Avtar Singh and another

...Petitioners

Versus

Sat Kartar Singh and others

...Respondents

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

Present: Mr.Parvinder Singh, Advocate
for the petitioners.

Mr.Arn timer Sood, Advocate
for respondent No.1.

H.S. MADAAN, J.

1. Under challenge in this revision petition is the order dated 22.5.2019 passed by Additional District Judge, SBS Nagar vide which an application under Section 5 of the Limitation Act for condonation of delay of 860 days in filing of the appeal by appellant/plaintiff against judgment and decree dated 1.8.2011 passed by Additional Civil Judge (Sr.Divn.), Balachaur dismissing the suit filed by Sat Kartar Singh (herein respondent No.1) had been allowed.

2. Briefly stated, the facts of the case are that plaintiff Sat Kartar Singh had brought a suit against defendant Avtar Singh and others seeking a declaration that he is co-owner in joint possession of the suit land situated in the area of village Chankoyi, Tehsil Balachaur with consequential relief of permanent injunction.

3. After contest, that Civil Suit bearing No.36 of 2008 was

dismissed by the Court of Addl.Civil Judge(Sr.Divn.), Balachaur vide judgment and decree dated 1.8.2011.

4. Feeling aggrieved by the judgment and decree passed by the trial Court, the plaintiff had preferred an appeal before District Judge, SBS Nagar, which was assigned to Additional District Judge, SBS Nagar. However, that appeal was filed belatedly, therefore the appellant/plaintiff had filed an application under Section 5 of the Limitation Act for condonation of delay contending that the appellant/plaintiff was not having knowledge of passing of judgment and decree dated 1.8.2011 by the trial Court prior to receiving letter dated 7.11.2013 sent by Sh.Ravi Kumar, Clerk of Sh.V.K. Bali, Advocate, the counsel engaged by the appellant in the lower Court; he had received that letter on 20.11.2013 and from perusal thereof, he came to know that the civil suit filed by him had been dismissed on 1.8.2011; the appellant then contacted his counsel on 21.11.2013 and got brief of the case from him; thereafter engaged another counsel for filing an appeal against judgment and decree dated 1.8.2011; his new counsel procured certified copies of judgment and decree dated 1.8.2011 on 27.11.2013 and informed the appellant regarding the same on 28.11.2013, thereafter the appeal was filed. The appellant craved for acceptance of his application so filed seeking condonation of delay in institution of the appeal.

5. That application was resisted by the respondents/defendants and that application was allowed by learned Additional District Judge, SBS Nagar vide the impugned order, leaving the respondents/defendants aggrieved, who have approached this Court by way of filing the present

revision petition.

6. Notice of the revision petition was issued to respondent No.1 only, who put in appearance through counsel.

7. I have heard learned counsel for the parties besides going through the record.

8. Learned counsel for the revision petitioners has argued that there was inordinate delay in filing of the appeal, which was not properly explained by the appellant/plaintiff but even then the First Appellate Court of Addl.District Judge, SBS Nagar had allowed the application without any justifiable cause or reason, depriving the defendants of a valuable right which had accrued to them.

9. Whereas learned counsel for the respondent/plaintiff has defended the order as legal and valid saying that no reason is there to set aside the same.

10. After hearing the rival contentions, I find that learned Addl. District Judge, SBS Nagar was fully justified in accepting the application under Section 5 of the Limitation Act for condonation of delay in filing of the appeal. Needless to say the Courts are there to do substantial justice between the parties, rather than adopting a hyper technical approach and in the process getting bogged down therewith. The rules of procedure are meant for advancing ends of justice and such rules are handmaid of justice. It is always desirable to decide a *lis* after hearing both the parties, rather than shutting doors of contest upon a party by adopting a very technical approach to the matter, that is what exactly learned Additional District Judge, SBS Nagar has done. He has simply allowed the

appellant/plaintiff to present his version on merits rather than shutting the doors of appeal upon him by adopting hypertechnical approach.

11. As regards the judgments i.e. **Mohd. Sahid and others Versus Raziya Khanam (D) Thr. LRs and another, 2018 AIR (Supreme Court)4724, Cap.Narinder Singh Versus Manjit Singh and others, 2006(4) ICC 652** and **Office of the Chief Post Master General & Ors. Versus Living Media India Ltd. & Anr., 2012(2) SCT 269** referred to by learned counsel for the revision petitioners, those are not applicable due to different facts and circumstances as well as the context in which such observations had been made.

12. The impugned order passed by the Ist Appellate Court 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.

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

The interim order dated 18.7.2019 passed by this Court staying passing of final order by the Appellate Court thus come to an end.

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

27.2.2023

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(H.S.MADAAN)

JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No