

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

**RSA No.1949 of 2022 (O&M)
Date of Decision: 15.11.2023**

Rashpal Singh

...Appellant

Versus

Gurmeet Ram

...Respondent

CORAM: HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA

Present:- Mr. Amandeep Saini, Advocate,
for the applicant-appellant.

* * * *

MEENAKSHI I. MEHTA, J.(ORAL)

CM No.6857-C of 2022

By way of the present application, the applicant-appellant (for short 'the applicant') has prayed for condonation of the delay of 1717 days in filing the above-captioned Regular Second Appeal (for short 'the RSA').

2. However, it is worth-while to mention here that the Registry has reported that after deducting the prescribed period of limitation for filing the appeal, i.e 90 days and also the Covid period w.e.f 15.03.2020 to 28.02.2022, the net period of delay comes out to be 624 days.

3. Today, learned counsel for the applicant informs the Court that despite his numerous efforts, his client is not coming forward to file his better affidavit for the purpose of the instant application, in compliance of the orders passed by the Co-ordinate Benches on 10.11.2022 and 02.02.2023. It being so, I have heard learned counsel for the applicant on this application and have also perused the file carefully.

4. Learned counsel for the applicant contends that during the pendency of the appeal preferred by the present respondent before the Lower Appellate Court against the judgment and decree passed by the trial Court, the counsel, initially engaged by the applicant, had pleaded, without even informing him, that he had no further instructions from him (applicant) and the counsel engaged by the applicant subsequently, had also not informed him about the proceedings and the fate of the afore-mentioned first appeal and when the applicant went to the Court to enquire about the same, only then he came to know that his counsel had died long ago and in these circumstances, it is explicit that the above-said delay on the part of the applicant in filing the RSA is not intentional and hence, the same deserves to be condoned.

5. However, the afore-raised contentions are devoid of any force because a bare perusal of the judgment passed by the Lower Appellate Court on 16.08.2018 reveals that the applicant (arrayed as respondent in the first appeal) had chosen to be proceeded against *ex-parte* before the said Court. Even if the counsel, engaged by the applicant previously in the first appeal, had pleaded qua having no instructions from him (applicant) and the counsel, engaged by him later-on, had expired, even then the fact remains that it was entirely for him to keep track of the proceedings conducted in the first appeal and had he done so, he would, certainly, have come to know about the demise of his counsel well in time. In the normal course of events, no prudent person can be expected to remain oblivious of the proceedings and outcome of the litigation initiated by or pending against him. It being so, it becomes quite clear that the above-mentioned delay does not stand plausibly and justifiably explained and rather, it has to be construed to be an inordinate one.

6. Keeping in view the afore-discussed facts and circumstances, this Court is of the considered opinion that the instant application, being bereft of any merit, deserves dismissal. Resultantly, the same stands dismissed.

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As a sequel to the dismissal of the above-referred application as moved by the applicant-appellant for seeking condonation of the delay in filing the appeal, it follows that the present RSA also deserves dismissal on the ground of its being hopelessly time barred. Resultantly, the same, along-with the afore-said Miscellaneous Application, stands dismissed accordingly.

15.11.2023
seema

(MEENAKSHI I. MEHTA)
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>
<i>Whether Reportable:</i>	<i>No</i>