

2023:PHHC:122176

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

CR-5159-2023 (O&M)
Date of decision: 15.09.2023

Kaur Singh

..Petitioner

Versus

Mandeep Kaur and others

.Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Nitin Sherwal and
Mr. A.C.Chaudhary, Advocates for the petitioner

ANIL KSHETARPAL, J (Oral)

1. In this revision petition the challenge is to the correctness of the order dated 13.07.2023, passed by the First Appellate Court.
2. The relevant facts, in brief, are required to be noticed, in order to comprehend the issue involved in the present revision petition, which arises for adjudication.
3. The plaintiff's suit for recovery of some amount was decreed on 14.09.2018 against the legal representatives of late Sh. Ajit Singh. There were other defendants in the suit for recovery. All the defendants, without realizing that the decree is only passed against the legal representatives of Ajit Singh, filed an appeal on 09.10.2018 i.e within the period of limitation. During the pendency of the appeal, the plaintiff (petitioner herein) filed a review application. The aforesaid review application was allowed on 05.02.2019, and the previous judgment and decree was modified to the extent that all the defendants shall be jointly and severally liable to pay the amount.

2. On 18.03.2023, the First Appellate Court permitted the appellants to withdraw their previous memorandum of appeal with permission to file a fresh one so as to incorporate challenge to the amended decree dated 05.02.2019. The revised grounds of appeal were filed on the same date i.e 18.03.2023. However, the learned counsel representing the appellant filed an application for condoning the delay in filing the First Appellate Court, which has been allowed.

3. Learned counsel representing the petitioner submits that the delay of nearly 4 years and 5 months has been condoned without sufficient reasons being given by the respondents.

4. This Court has considered the submissions of the learned counsel representing the petitioner. It is not in dispute that all the defendants filed the appeal on 09.10.2018 i.e within period of limitation. In the meantime, the decree passed by the trial court was modified, which necessitated the filing of the amended/revised memorandum of appeal alongwith the order dated 05.02.2019, which as a procedural formality has been allowed to be completed by the First Appellate Court. Hence, no ground to interfere is made out.

5. Dismissed, accordingly.

6. All the pending miscellaneous applications, if any, are also disposed of.

15.09.2023

rekha

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)

JUDGE