

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

CR-6427-2019(O&M)

Reserved on:18.4.2023

Date of Pronouncement:-20.4.2023

Biru Ram

...Petitioner

Versus

Chandigarh Administration, UT, Chandigarh and others

...Respondents

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

Present: Mr.K.S. Hissowal, Advocate  
for the petitioner.

Mr.Abhinav Sood, Advocate with  
Ms.Deepika Sood, Advocate  
for the respondents.

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**H.S. MADAAN, J.**

1. Under challenge in this revision petition is the judgment and decree dated 11.3.2011 passed by Civil Judge(Jr.Divn.), Chandigarh vide which the civil suit was dismissed as well as the order dated 31.8.2019 passed by learned Additional District Judge, Chandigarh vide which the application for condonation of delay in filing the appeal was declined.

2. Briefly stated, facts of the case are that plaintiff Biru Ram had filed a suit for declaration challenging the order issued by Estate Officer, Chandigarh Administration, U.T., Chandigarh vide which application for allotment of booth to the plaintiff had been rejected and his licence and registration in Rehri Market, Sector 41, Chandigarh had been cancelled. That Civil Suit No.155 of 4.6.2008 was pending in the Court of Civil Judge(Jr.Divn.), Chandigarh, which was being contested by the

defendants. Issues on merits had been framed and the case was fixed for the evidence of the plaintiff. Since the plaintiff failed to conclude his evidence despite availing of several opportunities, the evidence was closed by order and vide judgment and decree dated 11.3.2011, the suit was dismissed under Order 17 Rule 3 CPC.

3. The plaintiff then preferred an appeal before District Judge, Chandigarh, which was assigned to Additional District Judge, Chandigarh. The appeal had been filed belatedly by 2082 days. An application under Section 5 of the Limitation Act had been filed for condonation of such delay, notice of which was given to respondents, who turned up and opposed the application.

4. After hearing arguments, learned Additional District Judge, Chandigarh vide impugned order dated 31.8.2019 had dismissed the application for condonation of delay, as a result appeal was dismissed being time barred.

5. Those judgment-decree/orders passed by the trial Court and learned Additional District Judge, Chandigarh had left the plaintiff aggrieved and he has challenged the same by way of filing the present revision petition, notice of which was given to respondents, who put in appearance through counsel.

6. I have heard learned counsel for the parties besides going through the record and I find that there is absolutely no merit in the revision petition.

7. Firstly observing the conduct of the plaintiff before the trial Court, after filing of the suit, he did not prosecute it properly inasmuch as

he was granted several opportunities to lead evidence including a last opportunity but he did not bring on record any evidence so much so he did not step into the witness box himself so as to get his statement recorded, therefore his evidence was closed by order. Since defendants also did not lead evidence, the suit was dismissed by the trial Court by giving issue-wise findings under Order 17 Rule 3 CPC. That goes to show that the plaintiff was extremely careless and negligent in pursuing the civil suit filed by him before the trial Court. His suit had been dismissed on 11.3.2011. Then he went into deep sleep waking up one fine morning and filing appeal on 30.11.2016 after delay of 2082 days i.e. more than 5 ½ years. Though he had filed an application for condonation of delay citing the reason that he came to know about passing of judgment and decree dated 11.3.2011 only on 1.7.2013 when he engaged a new counsel and then came to know about passing of decree; that his previous counsel had not informed him about the status of the case and its dismissal on 11.3.2011. However, such stand taken by the plaintiff was disbelieved by learned Additional District Judge, Chandigarh by giving cogent and convincing reasons referring to the judgments on the aspect. It has been observed that conduct of the plaintiff revealed that he was not vigilant during pendency of the civil suit and thereafter the delay was not found to be unintentional, rather explanation put forward by the appellant was not accepted.

8. I find that the order passed by learned Additional District Judge, Chandigarh dismissing the application for condonation of such huge delay was fully justified and no illegality or infirmity with the same

is found to be there. The law does help a person, who is unable to approach a Court within a stipulated time on account of unavoidable circumstances and reasons beyond his control but not a litigant, who is grossly careless, lethargic and sluggish.

9. The impugned judgment-decree/order passed by the Courts below are quite detailed and well reasoned and those do not suffer from any illegality or infirmity and are 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 judgment/order by way of exercising the revisional jurisdiction.

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

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

20.4.2023  
Brij

(H.S.MADAAN)  
JUDGE

**Whether reasoned/speaking : Yes/No**

**Whether reportable : Yes/No**