

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

CR-6379-2023 (O&M)

Date of decision : 15.11.2023

Rajo Devi

..... Petitioner

Versus

General Public

..... Respondent

CORAM : HON'BLE MS. JUSTICE AMARJOT BHATTI

Present: Mr. Jaskirat Singh, Advocate,
Ms. Sukhvir Gill, Advocate,
Dr. Surya Parkash, Advocate and
Mr. Vikram Garg, Advocate
for the petitioner.

AMARJOT BHATTI J. (ORAL)

CM-19793-CII-2023

This is an application filed under Section 5 of the Limitation Act for condonation of delay of 116 days in filing the present revision petition.

Heard.

In view of the averments made in the application, which is duly supported by an affidavit of learned counsel for the petitioner and in the light of the settled position that a party should not be denied access to justice on hyper technical grounds and in the interest of justice, taking a lenient view, delay of 116 days in filing the revision petition is condoned.

The application is accordingly, allowed.

CR-6379-2023

The petitioner – Rajo Devi has filed civil revision under Article 227 of the Constitution of India for setting aside impugned order dated 24.05.2023

(Annexure P-4) passed by learned Additional Civil Judge (Senior Division), Safidon vide which application for the release of property was declined.

2. The learned counsel for the petitioner has placed on record copy of judgment dated 12.07.2022 vide which succession certificate was ordered to be issued in favour of the petitioner on furnishing security bonds and surety bonds. Copy of judgment is Annexure P-1. Thereafter, application dated 09.11.2022, Annexure P-3 was filed for the release of property by Shiv Charan Dass son of Kishori Lal and the same was declined by passing impugned order. It is pointed out that Rajo Devi is the only legal representative of late Babita. She lost her life in a road accident along with her husband Manoj Kumar and two sons namely Abhay Kumar and Hemant Garg. Accordingly, the succession certificate was issued in favour of Rajo Devi. The applicant Shiv Charan Dass s/o Rajo Devi stood as surety at the time of issuance of succession certificate. The learned counsel for the petitioner pointed out that the property furnished by the surety cannot be kept as it is for all times to come as the applicants require their property for their personal use. To support her claim, the counsel for the petitioner has also relied upon one authority of Delhi High Court in a case **2021(1) CivCC 585**, titled as **“Arvind Nanda vs. State”** where in that case *‘the succession certificate was sought by the petitioner being sole legal heir of the deceased. There was no objection from any quarter and for this reason the petitioner was exempted from furnishing surety’*.

3. I have considered the facts of the case. In this case, the succession certificate was ordered to be issued as per judgment dated 12.07.2022 (Annexure P-1). Shiv Charan Dass stood as surety for petitioner Rajo Devi by placing on record copies of transfer deed as well as sale deeds. It is not disputed that period of more than one year has passed and no better claimant has come forward. The

application is filed by the applicant Shiv Charan Dass for the release of his property. Now at present the counsel for the petitioner pointed out that the petitioner Rajo Devi as well as the applicant are ready to furnish their personal bonds along with affidavit to indemnify in case a better claimant comes forward. The personal bonds and affidavits were not furnished at the time of filing of application. Prior to this, in CR-5579-2023, titled “Rajo Devi versus General Public”, similar order was passed on 09.10.2023, which is Annexure P-7.

Considering the aforesaid facts, the impugned order dated 24.05.2023 (Annexure P-4) is set aside as the petitioner along with applicant Shiv Charan Dass intends to furnish personal bonds along with affidavit before the trial Court to indemnify in case of better claimant. The trial Court is directed to decide the application afresh as per law in the light of aforesaid facts.

Accordingly, the civil revision is disposed of.

15.11.2023

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(AMARJOT BHATTI)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No