

105.

2023:PHHC:166209

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

Civil Revision No.6874 of 2023 (O&M)

Date of decision: 16.11.2023

Shiv Karan Jaiswal

.... Petitioner

Versus

Satish Kumar Narang and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE GURBIR SINGH

Present: Mr. Puneet Kumar Bansal, Advocate, for the petitioner.

GURBIR SINGH, J.

1. Challenge in this revision petition is to the order dated 27.07.2015 passed by learned Appellate Authority, Ferozepur, whereby the appeal filed by respondent No.1-tenant against the order dated 31.07.2013 passed by learned Rent Controller, Ferozepur, has been allowed.

2. The present revision petition has been filed with a delay of 2913 days. By way of application i.e. CM-21054-CII-2023, the applicant-petitioner is seeking condonation of said delay. The reason stated for the delay is that the petitioner was not aware of the proceedings pending before the learned Appellate Authority. Though summons were issued to him but at the relevant time, he was residing in Canada and this fact was in the knowledge of respondent No.1. Publication was also effected in local newspaper, which has no circulation in Canada. No attempt was made to serve the other members of his family by respondent No.1.

3. I have heard the submissions of learned counsel for the petitioner and have gone through the file.

4. The delay is inordinate. The law of limitation is found upon maxims such as “*Interest Reipublicae Ut Sit Finis Litium*” which means that litigation must come to an end in the interest of society as a whole, and “*vigilantibus non dormientibus Jura subveniunt*” which means that the law assists those that are vigilant with their rights, and not those that sleep thereupon.

5. The Limitation Act, 1963 provides for period of limitation for any suit, appeal or application and these are liable to be dismissed if filed beyond the prescribed period. The applicant has to satisfy the court with sufficient cause. Law of limitation is substantive. Condonation of delay is an exception. Only on genuine reasons, delay can be condoned by exercising the power of discretion.

6. In the instant case, the appeal of the tenant-respondent No.1 was allowed in the year 2015 and the present revision petition has been filed after a delay of 2913 days i.e. after about 8 years. One cannot sleep over the matter for such a long period and suddenly woke up and approach the Court whenever finds fit. One must be vigilant enough for his rights. The argument that at the relevant time, the petitioner was residing at Canada has no merits since the landlord contested the ejectment application with his local address and it can be expected that he is residing there. Moreover, he must know trial Court is not the only forum for redressal of grievance, there is a provision for an appeal which remedy the tenant has availed.

7. Order 6 Rule 14-A(3) CPC reads as under:-

“(3) The address furnished in the statement made under sub-rule (1) shall be called the “registered address” of the party, and shall, until duly changed as aforesaid, be deemed to be the address of the party for the purpose of service of all processes in the suit or in any appeal from any decree or order therein made and for the purpose of execution, and shall hold good, subject as aforesaid, for a period of two years after the final determination of the cause or matter.”

8. The learned Rent Controller passed ejectment order dated 31.07.2013. The tenant filed appeal on 26.08.2013, which was decided on 27.07.2015 i.e. within two years. A notice of the appeal was sent to the respondent-landlord at his address given by him in the rent petition. As per abovementioned rule, the same is to be deemed as the address of the party for service, but respondent-landlord without giving his fresh address, was not found at the same.

9. In case ***Majji Sannemma @ Sanyasirao Versus Reddy Sridevi and others-2021(18) SCC 384***, the appeal was filed along with an application for condonation of delay. The High Court condoned the delay in filing the appeal, however, the Hon’ble Supreme Court held that there was no sufficient explanation for condonation of delay. In the said judgment, various judgments were discussed, however, the delay was not condoned.

10. In the case of ***Basawaraj and another Versus Special Land Acquisition Officer, (2013) 14 SCC 81***, it is held by Hon’ble Apex Court that the discretion to condone the delay has to be exercised judiciously based on facts and circumstances of each case. The expression “sufficient cause” cannot be liberally interpreted if negligence, inaction or lack of bona fides is attributed to the party. Even though limitation may harshly affect rights of a

party but it has to be applied with all its rigour when prescribed by statute. In case a party has acted with negligence, lack of bona fides or there is inaction, then there cannot be any justified ground for condoning the delay even by imposing conditions. Each application for condonation of delay has to be decided within the framework laid down by this Court. If courts start condoning delay where no sufficient cause is made out by imposing conditions then that would amount to violation of statutory principles and showing utter disregard to legislature.

11. In case *Lingeswaran and others Versus Thirunagalingam, 2022(2) R.C.R. (Civil) 319*, it is held by Hon'ble Supreme Court that Court has no power to extend period of limitation on equitable grounds.

12. There is no sufficient explanation for condoning the delay of 2913 days in filing the present revision petition. A court cannot entertain any petition at such a belated stage on the ground of equity. Accordingly, this Court finds that the reasons mentioned by the petitioner for condoning the delay of 2913 days in filing the present revision petition are not sufficient.

13. In view of above, the application i.e. CM-21054-CII-2023 seeking condonation of delay is dismissed and consequently, the petition i.e. Civil Revision No.6874 of 2023 is also dismissed as barred by limitation.

14. Pending application, if any, shall also stand disposed of.

(GURBIR SINGH)
JUDGE

November 16, 2023

sanjeev

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No