

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

110

CR-6032-2022 (O&M)

DATE OF DECISION: 31.01.2023

SUDESH RANI ALIAS URMILA RANI

... Petitioner (s)

Versus

SUNIL SEHGAL

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present: Mr. Ashwani Gaur, Advocate for the applicant/petitioner(s).

Mr. Rajnikant Upadhyay, Advocate for the respondent.

ANUPINDER SINGH GREWAL, J. (ORAL)

CM-1723-CII-2023

This application is for placing on record orders dated 03.01.2023 and 08.01.2023 at Annexures P-9 and P-10 respectively.

Application is allowed and orders dated 03.01.2023 and 08.01.2023 at Annexures P-9 & P-10 respectively are taken on record subject to all just exceptions.

CM-1727-CII-2023

This application is for staying the execution proceedings.

Issue notice to the counsel for the non-applicant.

Mr. Rajnikant Upadhyay, Advocate accepts notice on behalf of the non-applicant.

With the consent of the learned counsel for the parties, the date of hearing is preponed and the matter is taken up today itself for final disposal.

MAIN CASE

This revision petition is directed against the order of the Appellate Court dated 01.12.2022 (Annexure P-8) whereby the application of the applicant/petitioner for condonation of delay in filing the appeal has been dismissed.

Learned counsel for the applicant/petitioner submits that there was a delay of only 30 days in filing the appeal which ought to have been condoned. The petitioner could not file the appeal in time and the delay has occurred due to *bona fide* reasons. It is neither intentional nor deliberate.

Learned counsel for the non-applicant/ respondent submits that in the facts and circumstances of the case, the delay has rightly not been condoned. In support of his contention, he has relied upon the judgment in the case of **Balwant Singh Vs. Jagdish Singh and ors.**, reported as **2010 AIR (SC) 3043**.

Heard.

The applicant/petitioner had preferred an application under Order 9 Rule 13 CPC which was dismissed by the Trial Court by the order dated 26.05.2022 (Annexure P-3). The petitioner had preferred an appeal thereagainst on 27.07.2022 along with an application for condonation of delay of more than 30 days which was also dismissed on 01.12.2022.

The judgment in the case of **Balwant Singh Vs. Jagdish Singh and ors. (supra)** relied upon by the counsel for the non-applicant/respondent is distinguishable on facts and would not be applicable to the instant case as in that case the delay was of 778 days in filing the application for bringing the

LRs on record and it was in such circumstances held that the delay ought not to have been condoned.

However, in the instant case, it would be in the interest of justice, equity and fair play, if the delay is condoned and the appeal preferred by the petitioner before the Appellate Court is heard and decided on merits.

Consequently, the revision petition is allowed and impugned order dated 01.12.2022 (Annexure P-8) is set aside. The Appellate Court shall consider and decide the appeal preferred by the petitioner on merits.

(ANUPINDER SINGH GREWAL)
JUDGE

31.01.2023

SwarnjitS

Whether speaking/reasoned	:	Yes / No
Whether reportable	:	Yes / No