

**CM-702-C-2020 in/and  
RSA-273-2020**

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**2023:PHHC:121177**

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

**CM-702-C-2020 in/and  
RSA-273-2020**

**Date of Decision : 12.09.2023**

M/s Ramesh Trading Comnpny

..... Applicant-Appellant

Versus

Jit Singh

..... Respondent

**CORAM : HON'BLE MR. JUSTICE VIKRAM AGGARWAL**

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Present : Mr. Ravi Gakhar, Advocate  
for the applicoant-appellant.

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**VIKRAM AGGARWAL, J (ORAL)**

**CM-702-C-2020**

1. Prayer in the present application preferred under Section 5 of the Limitation Act read with Section 151 CPC is for condonation of delay of 2471 days in filing the present appeal.

2. It has been averred in the application that the applicant-appellant was under the impression that its appeal filed before the First Appellate Court i.e. Addl. District Judge, Patiala was under adjudication. It has been averred that when inquiry was made from counsel representing the applicant-appellant before the First Appellate Court, it came to the notice of the applicant-appellant that

the appeal had been dismissed in November, 2012. Thereafter, the applicant-appellant applied for a copy of the judgment. It has been averred that there was no occasion for the applicant-appellant to not to pursue the case intentionally since financial liability was involved in the suit. It has been averred that the appeal could not be filed within the period of limitation on account of bonafide reasons. It has also been averred that the delay in filing of the appeal is neither wilful nor intentional.

3. Learned counsel for the applicant-appellant has submitted that the delay in filing of the appeal is not intentional but was on account of the reasons beyond control of the applicant-appellant. It has been submitted that the applicant-appellant has a good case on merits and, therefore, the delay of 2471 days in filing the appeal deserves to be condoned and the appeal deserves to be heard on merits.

4. I have duly considered the submissions made by learned counsel for the applicant-appellant.

5. The applicant-appellant filed a suit for recovery of ₹6,27,543/- alongwith interest @ 1% per month. The said suit was dismissed by the Court of the Addl. Civil Judge (Senior Division), Samana vide judgment and decree dated 04.10.2011. An appeal was preferred against the said decision which also came to be dismissed by the Court of the Addl. District Judge, Patiala vide judgment and decree dated 17.11.2012. It is against the said

judgment and decree that the present appeal was preferred alongwith the application for condonation of delay.

6. As per Section 5 of the Limitation Act, if sufficient cause is shown for not preferring an appeal or an application (other than an application under the provisions of Order XXI CPC) within the prescribed period, the same may be admitted after the prescribed period as well. It is by now well settled that the Courts have to adopt a liberal approach while dealing with an application for condonation of delay. It is also well settled that normally, parties should be heard on merits and should not be non-suited on technicalities. In the case of **Esha Bhattacharjee versus Managing Committee of Raghunathpur Nafar Academy and others 2013 (4) RCR (Civil) 785**, the Hon'ble Apex Court culled out the principles with regard to condonation of delay. It was laid down by the Hon'ble Apex Court as under:-

From the aforesaid authorities the principles that can broadly be culled out are:

- (i) There should be a liberal, pragmatic, justice-oriented, non-pedantic approach while dealing with an application for condonation of delay, for the courts are not supposed to legalise injustice but are obliged to remove injustice.
- (ii) The terms "sufficient cause" should be understood in their proper spirit, philosophy and purpose regard being had to the fact that

these terms are basically elastic and are to be applied in proper perspective to the obtaining fact-situation.

(iii) Substantial justice being paramount and pivotal the technical considerations should not be given undue and uncalled for emphasis.

(iv) No presumption can be attached to deliberate causation of delay but, gross negligence on the part of the counsel or litigant is to be taken note of.

(v) Lack of bona fides imputable to a party seeking condonation of delay is a significant and relevant fact.

(vi) It is to be kept in mind that adherence to strict proof should not affect public justice and cause public mischief because the courts are required to be vigilant so that in the ultimate eventuate there is no real failure of justice.

(vii) The concept of liberal approach has to encapsule the conception of reasonableness and it cannot be allowed a totally unfettered free play.

(viii) There is a distinction between inordinate delay and a delay of short duration or few days, for to the former doctrine of prejudice is attracted whereas to the latter it may not be attracted. That apart, the first one warrants

strict approach whereas the second calls for a liberal delineation.

(ix) The conduct, behaviour and attitude of a party relating to its inaction or negligence are relevant factors to be taken into consideration. It is so as the fundamental principle is that the courts are required to weigh the scale of balance of justice in respect of both parties and the said principle cannot be given a total go by in the name of liberal approach.

(x) If the explanation offered is concocted or the grounds urged in the application are fanciful, the courts should be vigilant not to expose the other side unnecessarily to face such a litigation.

(xi) It is to be borne in mind that no one gets away with fraud, misrepresentation or interpolation by taking recourse to the technicalities of law of limitation.

(xii) The entire gamut of facts are to be carefully scrutinised and the approach should be based on the paradigm of judicial discretion which is founded on objective reasoning and not on individual perception.

(xiii) The State or a public body or an entity representing a collective cause should be given some acceptable latitude.”

7. Still further, in the case of Basawaraj and another versus Special Land Acquisition Officer 2013 (14) SCC 81, the Hon'ble Supreme Court of India was dealing with a judgment of the High Court of Karnataka wherein the appeals filed by the appellants had been dismissed on the ground of limitation. In this case also, the Hon'ble Apex Court examined as to what would amount to a sufficient cause as defined under Section 5 of the Limitation Act. It was held that the expression "sufficient cause" should be given a liberal interpretation to ensure that substantial justice is done but only so long as negligence, inaction or lack of bonafidies cannot be imputed to the party concerned. It was held that whether or not sufficient cause had been shown, could be decided on the facts of a particular case and no straitjacket formula was possible. In this case, there was a delay of 5 ½ years in filing the appeal and the High Court of Karnataka had dismissed the appeals on the ground of limitation. The Hon'ble Apex Court, after examining the facts of the case and law on the subject, declined to interfere in the decision of the Karnataka High Court and, therefore, rejected the appeals. It was held by the Hon'ble Apex Court as under:-

9. Sufficient cause is the cause for which defendant could not be blamed for his absence. The meaning of the word "sufficient" is "adequate" or "enough", inasmuch as may be necessary to answer the purpose intended. Therefore, the word "sufficient" embraces no more than that which provides a platitude, which

when the act done suffices to accomplish the purpose intended in the facts and circumstances existing in a case, duly examined from the view point of a reasonable standard of a cautious man. In this context, "sufficient cause" means that the party should not have acted in a negligent manner or there was a want of bona fide on its part in view of the facts and circumstances of a case or it cannot be alleged that the party has "not acted diligently" or "remained inactive". However, the facts and circumstances of each case must afford sufficient ground to enable the Court concerned to exercise discretion for the reason that whenever the Court exercises discretion, it has to be exercised judiciously. The applicant must satisfy the Court that he was prevented by any "sufficient cause" from prosecuting his case, and unless a satisfactory explanation is furnished, the Court should not allow the application for condonation of delay. The court has to examine whether the mistake is bona fide or was merely a device to cover an ulterior purpose.(See: Manindra Land and Building Corporation Ltd. v. Bhootnath Banerjee & Ors., AIR 1964 Supreme Court 1336 ; Lala Matadin v. A. Narayanan, AIR 1970 Supreme Court 1953 ; Parimal v. Veena @ Bharti, 2011(2) RCR (Civil) 155 : 2011(1) Recent Apex Judgments (R.A.J.) 611 and Maniben Devraj Shah v. Municipal

Corporation of Brihan Mumbai, AIR 2012 Supreme Court 1629.

10. In Arjun Singh v. Mohindra Kumar, AIR 1964 Supreme Court 993 this Court explained the difference between a "good cause" and a "sufficient cause" and observed that every "sufficient cause" is a good cause and vice versa. However, if any difference exists it can only be that the requirement of good cause is complied with on a lesser degree of proof than that of "sufficient cause".

11. The expression "sufficient cause" should be given a liberal interpretation to ensure that substantial justice is done, but only so long as negligence, inaction or lack of bona fides cannot be imputed to the party concerned, whether or not sufficient cause has been furnished, can be decided on the facts of a particular case and no straitjacket formula is possible. (Vide: Madanlal v. Shyamlal, 2002(2) RCR (Civil) 361 ; and Ram Nath Sao @ Ram Nath Sahu & Ors. v. Gobardhan Sao & Ors., 2002(2) RCR (Civil) 337.

12. It is a settled legal proposition that law of limitation may harshly affect a particular party but it has to be applied with all its rigour when the statute so prescribes. The Court has no power to extend the period of limitation on equitable grounds. "A result flowing from a statutory provision is never an evil. A

Court has no power to ignore that provision to relieve what it considers a distress resulting from its operation." The statutory provision may cause hardship or inconvenience to a particular party but the Court has no choice but to enforce it giving full effect to the same. The legal maxim "dura lex sed lex" which means "the law is hard but it is the law", stands attracted in such a situation. It has consistently been held that, "inconvenience is not" a decisive factor to be considered while interpreting a statute.

13. The Statute of Limitation is founded on public policy, its aim being to secure peace in the community, to suppress fraud and perjury, to quicken diligence and to prevent oppression. It seeks to bury all acts of the past which have not been agitated unexplainably and have from lapse of time become stale. According to Halsbury's Laws of England, Vol. 24, p. 181:

"330. Policy of Limitation Acts. The courts have expressed at least three differing reasons supporting the existence of statutes of limitations namely,(1) that long dormant claims have more of cruelty than justice in them,(2) that a defendant might have lost the evidence to disprove a stale claim, and(3) that persons with good causes of actions should pursue them with reasonable diligence".

An unlimited limitation would lead to a sense of insecurity and uncertainty, and therefore, limitation prevents disturbance or deprivation of what may have been acquired in equity and justice by long enjoyment or what may have been lost by a party's own inaction, negligence' or laches.

(See: Popat and Kotecha Property v. State Bank of India Staff Assn., 2005(4) RCR (Civil) 334 : (2005) 7 SCC 510 Rajendar Singh & Ors. v. Santa Singh & Ors., AIR 1973 Supreme Court 2537 and Pundlik Jalam Patil v. Executive Engineer, Jalgaon Medium Project, (2008) 17 SCC 448

14. In P. Ramachandra Rao v. State of Karnataka, 2002(2) RCR (Criminal) 553 , this Court held that judicially engrafting principles of limitation amounts to legislating and would fly in the face of law laid down by the Constitution Bench in A. R. Antulay v. R.S. Nayak, 1992(2) RCR (Criminal) 634 .

15. The law on the issue can be summarised to the effect that where a case has been presented in the court beyond limitation, the applicant has to explain the court as to what was the "sufficient cause" which means an adequate and enough reason which prevented him to approach the court within limitation. In case a party is found to be negligent, or for want of bona fide on his part in the facts and

circumstances of the case, or found to have not acted diligently or remained inactive, there cannot be a justified ground to condone the delay. No court could be justified in condoning such an inordinate delay by imposing any condition whatsoever. The application is to be decided only within the parameters laid down by this court in regard to the condonation of delay. In case there was no sufficient cause to prevent a litigant to approach the court on time condoning the delay without any justification, putting any condition whatsoever, amounts to passing an order in violation of the statutory provisions and it tantamounts to showing utter disregard to the legislature.

8. Reverting to the facts of the present case, there is a delay of 2471 days in filing the appeal i.e. a delay of almost seven years. The reason given for the delay is that the applicant-appellant was under the impression that the appeal was pending before the First Appellate Court and when the applicant-appellant checked up, it came to the notice of the applicant-appellant that the same had been decided in the year 2012. The present appeal was filed in the year 2020.

9. In the considered opinion of this Court, the applicant-appellant has not been able to show any sufficient cause for the extraordinary delay in filing the appeal. The applicant-appellant has been extremely negligent and casual in pursuing its case for which no

one except the applicant-appellant is responsible and no indulgence deserves to be granted to the applicant-appellant. Principles (v), (vii), (viii), (ix) and (xii) as culled out in the case of Esha Bhattacharjee versus Managing Committee of Raghunathpur Nafar Academy and others (supra) would apply in the present case. Still further, as per the ratio of law laid down by the Hon’ble Apex Court in the case of Basawaraj and another versus Special Land Acquisition Officer’s case (supra), no relief deserves to be granted to the applicant-appellant.

10. In view of the afore-mentioned facts and circumstances, I do not find any merit in the present application and the same is accordingly dismissed.

**RSA-273-2020**

Consequently, the appeal stands dismissed.

**(VIKRAM AGGARWAL)**  
**JUDGE**

**12.09.2023**  
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|---------------------------|--------|
| Whether speaking/reasoned | Yes/No |
| Whether Reportable        | Yes/No |