

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

**RSA No.262 of 2019 (O&M)
Date of Decision: 05.12.2023**

Bhuru (deceased) through his LR's and others

...Appellants

Versus

Kesar and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA

Present:- Mr. Abhinav Sood, Advocate appearing for
 Mr. Vikram Singh, Advocate
 for the applicants-proposed LR's of appellant No.1
 as well as for applicants-appellants No.2 and 3.

MEENAKSHI I. MEHTA, J.(Oral)
CM No.17118-C of 2019

By way of the instant application, the applicants-proposed LR's of appellant No.1 and appellants No.2 & 3 have prayed for condonation of the delay of 1208 days in filing the appeal bearing **RSA No.262 of 2019**, while averring that appellant-plaintiff No.1-Bhuru, who had been pursuing the litigation between the parties, remained bed-ridden due to illness and ultimately, he passed away on 28.01.2017 and their neighbour named Same Singh had informed them that plaintiff No.1 had been contesting the above-said litigation and then, they enquired about the fate thereof and came to know that the first appeal moved by respondents No.1 to 16-defendants had already been decided in the year 2015 and thus, the afore-mentioned delay on their part in filing the Regular Second Appeal, is not intentional.

2. I have heard learned counsel for the applicants on the present application and have also perused the file carefully.

3. A perusal of the judgment handed down by learned Additional District Judge, Sonapat in Civil Appeal No.84 of 2013/2014 titled as '***Smt. Kesar and others Vs. Bhuru and others***', reveals that this appeal had been decided on 12.05.2015, i.e more than 1½ year prior to the death of plaintiff No.1-Bhuru. The applicants have not placed even an iota of material on the file to show that Bhuru had remained confined to bed for a long time before his death, so as to further establish that he was unable to visit the Court or his counsel to pursue the above-referred first appeal. Even if for the sake of arguments, it is so presumed, even then the fact remains that in such an eventuality, he could/would have disclosed the factum of the pendency of the said appeal to the applicants. To add to it, in normal course of events, the applicants-proposed LRs of plaintiff No.1, being his successors-in-interest and applicants No.2 and 3, who themselves had been arrayed as the respondents in the afore-said appeal, cannot be presumed to be oblivious of the pendency of the same.

4. To cap it all, throughout in this application, the applicants have not come forward with any specific date, month or year, when their above-named neighbour had intimated them regarding the pendency of the afore-mentioned appeal and as to when they had moved the application for obtaining the copies of the judgment and decree passed therein and the same had been supplied to them. It being so, mere above-discussed bald averments, as canvassed by them (applicants) in the instant application, do

not suffice at all to plausibly explain the afore-said delay in filing the main appeal and rather, the same has to be construed to be an inordinate one. Resultantly, the application in hand, being bereft of any merit, stands dismissed.

RSA No.262 of 2019 and
CM Nos.17119-C and 17120-C of 2019

Consequent upon the dismissal of the above-said application as moved by applicants for seeking condonation of the delay in filing this Regular Second Appeal, it follows that the same also deserves dismissal. Hence, the appeal in hand and also the afore-indicated Miscellaneous Applications, stand dismissed accordingly.

December 05, 2023
pooja

(MEENAKSHI I. MEHTA)
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>
<i>Whether Reportable:</i>	<i>No</i>