



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

SAO No.1 of 2019 (O&M)

Date of Order:25.07.2024

Gram Panchayat Village Naulakha, Tehsil & Distt. Fatehgarh Sahib

.Appellant

Versus

Gurmeet Kaur and others

..Respondents

C.R.No.1719 of 2021 (O&M)

Gram Panchayat Village Naulakha, Tehsil & Distt. Fatehgarh Sahib

.Petitioner

Versus

Gurmeet Kaur and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. V.K.Sandhir, Advocate
for the appellant/petitioner

Mr. Harjinder Singh, Advocate
for respondent no.1.

ANIL KSHETARPAL, J

1. With the consent of the learned counsel representing the parties, two connected cases i.e SAO No.1 of 2019 and Civil Revision No.1719 of 2021, shall stand disposed of by a common order.
2. The defendant-Gram Panchayat of Village Naulakha, assails the correctness of the First Appellate Court's order refusing to condone the delay of 240 days in filing the first appeal.
3. The plaintiff (respondent no.1 herein) filed a suit for recovery of Rs.3,69,000/- from the Gram Panchayat on the ground that she is former



Sarpanch and she has spent Rs.2,58,171/- from her own pocket for the development of the village. Hence, she filed the suit for recovery of the amount along with interest. The defendants were ex-parte proceeded and an ex-parte decree was passed on 26.05.2015.

4. The Gram Panchayat filed the first appeal along with an application for condoning the delay of 240 days on the ground that the previous counsel did not inform about the proceedings and the decision of the suit to the Gram Panchayat. When the Sarpanch visited the previous counsel in the first week of January, he came to know about the decision. Thereafter, he engaged a new counsel and filed the appeal.

5. The First Appellate Court has refused to condone the delay on the ground of inordinate delay in filing the first appeal. Further, the Sarpanch appeared in evidence as DW1 on 09.02.2014 and cross-examined on 24.03.2015. The court has also observed that it was expected of the Sarpanch to remain in touch with his counsel to know the status and the fate of the case.

6. This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paper book.

7. It is evident that the First Appellate Court has drawn inference while refusing to condone the delay of 240 days. The present Sarpanch has filed an affidavit claiming that his counsel did not inform him about the proceedings. In fact, the previous counsel had earlier appeared for the plaintiff. The respondent has failed to prove that there was any communication made to the current Sarpanch of the Gram Panchayat by the previous counsel. The First Appellate Court is required to decide the case



upon re-appreciation of evidence which constitutes an important remedy available to the party to test the correctness of the trial court's judgment. In such cases, the approach of the court should be liberal and holistic. The pragmatic approach in such cases is of paramount necessity particularly when institution of democracy at the grass root level is involved.

8. Keeping in view the aforesaid facts and discussion, the delay of 240 days in filing the appeal is condoned because it is not proved that there was malafide on the part of the appellant.

9. In Civil Revision No.1719 of 2021, the correctness of the order passed by the Executing Court is challenged.

10. Since, the first appeal has been restored to its original number, the appellant shall have the liberty to file an application for grant of interim order before the First Appellate Court. If such application is filed on or before the next date of hearing, the same shall be decided within next two months from the date of filing.

11. Till then, the Executing Court is requested not to proceed further in the proceedings.

12. With these observations, both the cases are disposed of.

13. All the pending miscellaneous applications, if any, are also disposed of.

July 25, 2024
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned :YES/NO
Whether reportable :YES/NO