



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

1. CR-2364-2017 (O&M)
- Balbir ... Petitioner
- Versus
- Dhansi Ram (Deceased) Thr Lrs and Another ... Respondents
2. CR-2917-2017 (O&M)
- Balbir ... Petitioner
- Versus
- Government of Haryana and Others ... Respondents
3. CR-2894-2017 (O&M)
- Balbir ... Petitioner
- Versus
- Prabhati Lal and Others ... Respondents

Date of Decision:- **23.08.2024**

-.-

**CORAM: HON'BLE MRS. JUSTICE RITU TAGORE**

Present:- Mr. Zorawar Singh Chauhan, Advocate  
for the petitioner.

Mr.S.K. Yadav, Advocate  
for respondents No.2(A) and 2(V) (in **CR-2364-2017**);  
for respondent No.5 and 6 (in **CR-2917-2017**) and  
for respondent No.1 (in **CR-2894-2017**).



Mr. Sumit Sangwan, Advocate  
for respondent No.7 (in CR-2917-2017).

\*\*\*\*

**RITU TAGORE, J.** (Oral)

1. This common order shall dispose of the above title revision petitions, arising from the same order dated 07.02.2017 (Annexure P-5) passed in- (I) Civil Appeal No. 100 of 2015 titled as 'Balbir vs. Dhansi Ram and Another', arising out of suit No.314 RT of 2003 titled as Dhansi Ram vs. Balbir Singh and Another; (II) Civil Appeal No.99 of 2015 titled as Balbir and Another vs. Parbhati and Others (Annexure P-5), arising out of civil suit No.216 RT of 2001, titled as Parbhati vs. Ram Sarup and Others; (III) Civil Appeal No.101 of 2015 titled as Balbir vs. Govt. of Haryana and Others, arising out of Civil Suit No.392 of 2004 titled Balbir Singh vs. Government of Haryana and Others.

2. The counsel for the parties have agreed and consented to decide these revisions, together, having similar questions of facts and law involved therein.

3. It would be desirable to go through the factual background, leading to filing of these revisions. As explicit from the paper book and documents appended, three suits namely CS No.216 RT of 2001 titled Parbhati Lal vs. Ram Sarup and Others for declaration and permanent injunction, was filed with material averments that suit property as detailed in the plaint, ie., Ahata No.336 Ghar No.380 and its Gosa is in continuous possession of the plaintiff and proforma defendants as owners, and the wrong entries appearing in the record are liable to be corrected and defendants be



restrained from interfering in peaceful possession and use of the common passage comprise in Ahata No.339/Ghar No.383 Gosa, area 14 Biswansi; (ii) Suit No.392/2004 titled as Balbir Singh vs. Government of Haryana and Others, was instituted for declaration-cum-injunction, asserting that plaintiff is owner of a residential plot comprised in Ahata No.335 House No.379 with boundaries and measurements as detailed in the plaint, as recorded in the revenue record and the local commissioner report is illegal beyond the revenue record and defendants be restrained from demolishing the construction of the plaintiff and he be compensated for illegal acts of defendants. (iii) Suit No.314 RT/2013 was filed by Dhansi Ram titled as Dhansi vs. Balbir and others for permanent injunction, pleading that he is owner in possession of suit property Ahata No.334-A/Ghar No.378 as detailed in plaint and defendants be restrained from interfering in his possession, and be directed to remove construction if any raised on the suit property.

4. Learned trial Court consolidated all the suits and decided them by single judgment dated 15.03.2010. The petitioner initially filed one consolidated appeal against the judgment and decree dated 15.03.2010. The learned Additional District Judge, Narnaul vide judgment and decree dated 07.03.2014, dismissed the appeal, observing that one appeal challenging the judgment and decree dated 15.03.2010 vide which three suits were tried together and decided, is not maintainable. The petitioner filed, revision No.3919 of 2015, challenging the judgment and decree dated 15.03.2010 of the learned trial Court and judgment and decree dated 07.03.2014, of learned 1<sup>st</sup> Appellate court, which was subsequently withdrawn vide order dated



10.08.2015 with liberty to avail alternate remedy in accordance with law. Thereafter, the petitioner filed three separate appeals detailed above, with the delay of 1999 days, which were dismissed vide order(s) dated 07.02.2017, respectively, holding that appeals are time-barred while dismissing the application for condonation of delay, with the observation that no ground is made out to condone the delay in filing the appeals. The relevant paragraphs of the impugned order are extracted below: ( this order is taken from CR No. 2364, since the orders impugned in other CR 2894 and 2917 are identical, they are not repeated, to avoid redundancy)

“18. The above said settled principle of law when applied to the facts in hand, it comes out that no specific plea has been put forward by the appellants seeking condonation of delay and the only plea put forward is that the delay is not intentional and due to error committed by trial court because trial court should have passed the judgment and decrees separately. But perusal of the grounds of the appeal as well as application for condonation of delay shows that the appellants themselves are on fault being filed the single appeal of three suits before Sh. Narender Shura learned ADJ, Narnaul, which was decided on 7.3.2014 being not maintainable. Further more, appellants filed civil revision before Hon'ble High Court against order dated 7.3.2014, which was also dismissed on 10.8.2015. More so, appellants filed the present appeal on 7.10.2015 after consuming about two months of order of Hon'ble High Court. All facts shows that this is deliberate delay not bonafide and they have failed to show sufficient cause for condonation of delay of 1999 days which is much more, was caused. Furthermore, their sole assertion which is otherwise not corroborated from any cogent and reliable evidence is liable to be rejected outrightly.



19. The appellants were required to file the appeal within 30 days, but they did not take the pain to file the appeal within limitation and slept on the same as a Kumbhkarna's slumber. They filed the appeal after about 1999 days which is much more from the date of judgment and decree dated 15.3.2010. Admittedly, the present appeal has been filed after expiry of period of limitation. The appellants were required to plead and prove each day's delay in filing the appeal, but they miserably failed to assert and prove the same. The courts cannot condone the delay in routine manner. No cause what to talk of reasonable cause for condonation of delay has been put forward by them. As such there is no ground to allow the application for condonation of delay in filing the appeal and the same is liable to be dismissed. The authorities cited by learned counsel for appellants are not disputed, but are not applicable to the facts of this case.

20. As a sequel to the above discussion, there is no ground to condone the delay in filing the appeal and as such, the application for condonation of delay is dismissed and as a consequence thereof, the present appeal is also dismissed being time barred. File be consigned to record room.”

5. Learned counsel for the petitioner contends that learned Appellate Court, while dismissing the application under Section 5 of Limitation Act, 1963 for condonation of delay, failed to appreciate that initial consolidated appeal against the judgment of learned trial Court dated 15.03.2010 (Annexure P-1), was filed by the petitioner within period of limitation. However, due to the fault of both the counsel of the petitioner and learned trial Court, which prepared single decree, only one consolidated appeal was filed. Learned counsel states that the petitioner was not at fault for filing a consolidated appeal. Moreover, the learned Appellate Court, initially did not raise any objection to the filing of a consolidated appeal and



kept the appeal pending for four years before dismissing it on 07.03.2014 (Annexure P-2) as unmaintainable. Thereafter, the petitioner immediately filed the revision, which also remained pending for more than a year and was eventually withdrawn, with liberty to avail alternate remedy.

6. Learned counsel submits that the petitioner is a retired service man, and is a person of limited means. After the withdrawal of the revision petition and arrangement of funds, the petitioner promptly filed three appeals. The learned counsel submits that Section 14 of Limitation Act, 1963 provides for exclusion of period spent pursuing the proceedings in good faith when, due to defect of jurisdiction or another cause of a like nature, the Court is unable to entertain the matter. The aforesaid *bona-fide* circumstances that led to the delay in filing the appeals, are indeed evident. Learned counsel submits that learned Appellate Court non-suited the petitioner for delay of two months, in filing the appeals, which was cogently explained by the petitioner. Moreover, it is argued that petitioner should not be penalized for the counsel's fault.

7. Learned counsel submits that that it is an established position of law that Courts should adopt a liberal approach in condoning the delay and parties be permitted to decide their *lis* on merits. The substantive rights of the parties should not be defeated on technical grounds. A prayer is made to set aside the order and petitioner be permitted to prosecute his case/appeal. In support of his contention, learned counsel has relied upon judicial pronouncements titled as **S. Ganesharaju (D) LRs and another vs. Narasamma (D) Thr. LRs and Others, 2013 (11) SCC 341; Oriental Aroma Chemical Industries Ltd. vs. Gujarat Industrial Development**



**Corporation and Another, 2010 (5) SCC 459; N. Balakrishnan vs. M. Krishnamurthy, 1998 (7) SCC 123; Purni Devi and Another vs. Babu Ram and Another, 2024 (2) CivCC 725 and B. Madhuri Goud vs. B. Damodar Reddy, 2012 (12) SCC 693**

8. Contra, learned counsel for the respondents while defending the order(s) under challenge, stated that, order(s) have been validly and rightly passed, considering the settled principles of law governing the law of limitation that Court has no power to extend the period of limitation on the equitable grounds. Once a litigant fails to explain the delay with cogent explanation, no ground is made to condone the delay. Learned counsel submits that the appeal was dismissed on 07.03.2014 by the learned Appellate Court and revision was withdrawn on 10.08.2015. The appeals were filed on 07.10.2015 after two months from the passing of order in revision. It is stated that only reason provided in application, explaining the delay was that petitioner is a retired service man and it took time to arrange the funds until September, 2015; thereafter engaged a counsel and filed appeals. It is stated that in grounds of revision(s), no such plea(s) has/have been taken. Instead, it is stated that after collecting the certified copies and preparing the documents, the appeals were filed. Learned counsel argues that inconsistent grounds have been pleaded to explain the delay, which indeed does not reflect 'sufficient cause' for the delay. Further more, learned counsel submits that liberal approach in considering 'sufficiency of cause' for delay does not allow to override substantial law of limitation. In support of his arguments referred to **Basawaraj and Another vs. Special Land Acquisition Officer (2013) 14 SCC 81; Pathapati Subba Reddy (Died) by**



**L.Rs. & Ors. vs. The Special Deputy Collector (LA), 2024 AII SCR 961; Lingeswaran etc. vs. Thirunagalingam, 2022(2) R.C.R. (Civil) 319 and Popat Bahiru Govardhane etc. vs. Special Land Acquisition Officer and Another 2014(1) R.C.R. (Civil) 557** and a prayer for dismissal of the petition is made.

9. I have heard the learned Counsel for the parties and have gone through the paper book and documents appended, with their valuable assistance.

10. In **Basawaraj and Another (supra)**, Hon'ble the Apex Court observed that discretion to condone the delay has to be exercised judiciously based on facts and circumstances of the case. The expression 'sufficient cause' as occurring in Section 5 of the Limitation Act, 1963 cannot be liberally interpreted if negligence, in action or lack of *bona-fide* is writ large. It was also observed that even though limitation may harshly affect the rights of the parties but it has to be applied with all its rigor as prescribed at the statute as the Courts have no choice but to apply the law as it stands and they have no power to condone the delay on equitable grounds. In para No.15 Hon'ble the Supreme Court observed as under:-

"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”.

11. In **Popat Bahiru Govardhane (Supra)**, Hon’ble the Apex Court observed that law of limitation may harshly affect a particular party but it has to be applied with all its rigor when the statute so prescribes- the legal maxim ‘dura lex sed lex’ which means “the law is hard but it is the law”, stands attracted in such a situation.

12. In **Maniben Devraj Shah Vs Municipal Corporation of Brihan Mumbai ( 2012) 5 SCC 157**, Hon’ble the Supreme Court, after referring to judicial precedents, observed as:

“What needs to be emphasised is that even though a liberal and justice-oriented approach is required to be adopted in the exercise of power under Section 5 of the Limitation Act and other similar statutes, the courts can neither become oblivious of the fact that the successful litigant has acquired certain rights on the basis of the judgment under challenge and a lot of time is consumed at various stages of litigation apart from the cost.”

13. In recent judgment of **Pathapati’s case (supra)** Hon’ble the supreme Court while dealing with issue of condonation of delay in filing appeal, discussed following principles:



- (i) Law of limitation is based upon public policy that there should be end to litigation by forfeiting the right to remedy rather than right itself;
- (ii) A right or the remedy that has not been exercised or availed of for a long time must come to an end or cease to exist after fixed period of time;
- (iii) The provisions of Limitation Act have to be construed differently, such as Section 3 has to be construed in a strict sense whereas Section 5 has to be construed liberally;
- (iv) In order to advance substantial justice, though liberal approach, justice-oriented approach or cause of substantial justice may be kept in mind but the same cannot be used to defeat the substantial law of limitation contained in Section 3 of the Limitation Act;
- (v) Courts are empowered to exercise discretion to condone the delay if sufficient cause had been explained, but that exercise of power is discretionary in nature and may not be exercised even if sufficient cause is established for various factors such as, where there is inordinate delay, negligence and want of due diligence;
- (vi) Merely some persons obtained relief in similar matter, it does not mean that others are also entitled to same benefit if court is not satisfied with cause shown for delay in filing appeal;
- (vii) Merits of case are not required to be considered in condoning delay.



(viii) Delay condonation application has to be decided on the parameters laid down for condoning the delay and condoning the delay for the reason that the conditions have been imposed, tantamounts to disregarding the statutory provision.”

14. In the light of the propositions laid down in the aforementioned judicial decisions, let me examine, whether the explanation given by the petitioner for 1999 days of delay in filing the appeal, has any semblance of credibility and *bona fides*? In present case, the plea taken by the petitioner does not appear to be genuine. From the record, it is evident that petitioner before filing the appeal on 07.10.2015, had previously filed an appeal and revision. Therefore, the claim that it took time for him to arrange money and to obtain certified copies and prepare the documents, appears an afterthought. Further appeal No.99 has been filed by two appellants, so petitioner’s plea of arranging funds alone does not appear tenable, nor it has been so pleaded. From facts and circumstances, a case of sheer negligence and inaction is made out on the part of petitioner, leading to delay in filing the appeal(s). The petitioner filed the revision under Article 227 of the Constitution of India, after unexplained delay of about five months, to challenge the order dated 07.03.2014, which held that filing of a composite appeal was not maintainable. Thereafter, the petitioner withdrew the revision on 10.08.2015 with liberty to avail alternate remedy. These facts do not suggests that the petitioner under a *bona-fide* impression pursuing a wrong remedy. After the dismissal of his first appeal on 07.03.2014, the petitioner should have filed separate appeals as observed in the order *ibid* but instead, he preferred to file revision. Again, after the disposal of revision, the petitioner waited for two



months and thereafter filed appeals. The explanation tendered by the petitioner in given factual matrix, is not worth credible. The petitioner failed to prove 'sufficient cause' in filing the appeals beyond period of delay. Generally, the courts adopt liberal approach in construing the expression 'sufficient cause' employed in Section 5 of the Limitation Act to do substantial justice. However, at the same time, it must be borne in mind that while construing the expression 'sufficient cause', the substantive rights in favor of the decree holder so accrued, ought not be disturbed lightly. In **S. Ganesharaju (D) LRs and another (supra)**, there was delay of 53 days in filing review petition and respondents had not opposed the application for condoning the delay. Here, respondents resisted the application for the delay. The **Oriental Aroma Chemical Industries Ltd. (supra)**, dealt with cases where delay was caused by State or its instrumentalities. **N. Balakrishnan (supra)**, in this case, it was held that acceptability of the explanation is the only criterion while dealing with the application of condonation the delay. **Purni Devi and Another (supra)** dealt with Section 14 of Limitation Act, 1963. In **B. Madhuri Goud (supra)**, the plea taken by the petitioner about misplacement of the documents was held vague and delayed was not condoned. These case law as relied by the petitioner in given facts is of no help to the petitioner.

15. As per discussion, no ground is made out to interfere in the judicious exercise of discretion exercised by the learned Appellate Court, while dismissing the application under Section 5 of the Limitation Act, 1963 by rightly finding no sufficient ground to condone the delay. As a result, the revision petitions are dismissed.



16. Since the main case has been decided, pending miscellaneous application(s), if any, are also disposed of accordingly.

23.08.2024  
Gaurav Sorot

( RITU TAGORE)  
JUDGE

|                              |          |
|------------------------------|----------|
| Whether reasoned / speaking? | Yes / No |
| Whether reportable?          | Yes / No |