

135.

2024:PHHC:016067

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No.392 of 2024 (O&M)

Date of decision: 24.01.2024

Ajay Kumar

... Appellant

Versus

Harsh and another

... Respondents

CORAM: HON'BLE MR. JUSTICE GURBIR SINGH

Present: Mr. Vineet Dhanda, Advocate, for the appellant.

GURBIR SINGH, J.

1.
- Appellant-Ajay Kumar, who was the owner of offending vehicle i.e. motorcycle bearing registration No.HR-14H/4915, and vide award dated 27.08.2021 he along with driver-Amit, respondent No.2 herein, was held liable to pay compensation of Rs.2 lacs to the claimant-respondent No.1 herein, has approached this Court on the sole ground that at the time of accident, vehicle was not in his possession and he had already sold it to respondent No.2-Amit and an affidavit was also executed in this respect.
2.
- The appeal is accompanied with an application i.e. CM-1342-CII-2024 seeking condonation of delay of 588 days in filing thereof.
3.
- Learned counsel for the applicant-appellant has argued that since before the accident, the appellant had already sold the offending vehicle to respondent No.2, so he was not liable to pay compensation to

the claimant. It is submitted that respondent No.2 had assured the appellant to pay compensation to respondent No.1-claimant, so, he did not file any appeal against the award. Since respondent No.2 did not pay the amount of compensation to respondent No.1, so respondent No.1 filed execution whereby respondent No.2 has been proceeded against ex-parte. Now, the Executing Court has issued warrant of attachment of property of the appellant.

4. I have heard the submissions of learned counsel for the appellant and have gone through the file.

5. The delay is inordinate. The law of limitation is found upon maxims such as *“Interest Reipublicae Ut Sit Finis Litium”* which means that litigation must come to an end in the interest of society as a whole, and *“vigilantibus non dormientibus Jura subveniunt”* which means that the law assists those that are vigilant with their rights, and not those that sleep thereupon.

6. The Limitation Act, 1963 provides for period of limitation for any suit, appeal or application and these are liable to be dismissed if filed beyond the prescribed period. The applicant has to satisfy the court with sufficient cause. Law of limitation is substantive. Condonation of delay is an exception. Only on genuine reasons, delay can be condoned by exercising the power of discretion.

7. In the instant case, the award was passed in the year 2021 and the present appeal was filed after a delay of 588 days i.e. after more than after one and half year. One cannot sleep over the matter for such a

long period and suddenly woke up and approach the Court whenever finds fit. One must be vigilant enough about his rights. When the appellant was made liable along with driver-Amit to pay compensation to the claimant, it was their duty to satisfy the claimant. But they slept over the matter which resulted in filing of execution. A mere statement that respondent No.2 assured the appellant to pay compensation to the claimant, without any writing in this respect, has no legs to stand in the eyes of law. Moreover, the appellant approached this Court only when the Executing Court issued warrant of attachment of his property.

8. In case ***Majji Sannemma @ Sanyasirao Versus Reddy Sridevi and others-2021(18) SCC 384***, the Regular Second Appeal was filed along with an application for condonation of delay. The High Court condoned the delay in filing the appeal, however, the Hon'ble Supreme Court held that there was no sufficient explanation for condonation of delay. In the said judgment, various judgments were discussed, however, the delay was not condoned.

9. In the case of ***Basawaraj and another Versus Special Land Acquisition Officer, (2013) 14 SCC 81***, it is held by Hon'ble Apex Court that the discretion to condone the delay has to be exercised judiciously based on facts and circumstances of each case. The expression "sufficient cause" cannot be liberally interpreted if negligence, inaction or lack of bona fides is attributed to the party. Even though limitation may harshly affect rights of a party but it has to be applied with all its rigour when prescribed by statute. In case a party has acted with

negligence, lack of bona fides or there is inaction, then there cannot be any justified ground for condoning the delay even by imposing conditions. Each application for condonation of delay has to be decided within the framework laid down by this Court. If courts start condoning delay where no sufficient cause is made out by imposing conditions then that would amount to violation of statutory principles and showing utter disregard to legislature.

10. In case *Lingeswaran and others Versus Thirunagalingam, 2022(2) R.C.R. (Civil) 319*, it is held by Hon'ble Supreme Court that Court has no power to extend period of limitation on equitable grounds.

11. There is no sufficient explanation for condoning the delay of 588 days in filing the appeal. The court cannot entertain any appeal at such a belated stage on the ground of equity. Accordingly, this Court finds that the reasons mentioned by the applicant-appellant for condoning the delay of 588 days in filing the appeal are not sufficient.

12. Moreover, the appeal itself has no merit. A perusal thereof would show that except a mere statement, the appellant could not produce any documentary evidence that he had sold the vehicle to respondent No.2-Amit and he was not the owner at the time of accident. Till it is not proved by way of any documentary evidence that at the relevant time he was not owner of the vehicle and has transferred the same, the registered owner becomes liable for any mishap.

13. After going through the award, this Court finds that the Tribunal has passed it in accordance with law and no ground for interference is made out.

14. Accordingly, the application i.e. CM-1342-CII-2024 seeking condonation of delay is dismissed and consequently, the appeal i.e. FAO No.392 of 2024 is also dismissed as barred by limitation.

15. Pending application, if any, shall also stand disposed of.

(GURBIR SINGH)
JUDGE

January 24, 2024

renu/sanjeev

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No