

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

RSA No.3887 of 2023 (O&M)

Date of Decision: 25.04.2024

Jit Singh

...Appellant

Versus

M/s Thind Traders Commission Agent

...Respondent

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

Present:- Mr. Gursimran Singh Madaan, Advocate
 for the appellant.

MEENAKSHI I. MEHTA, J. (Oral)
CM No.13920-C of 2023

By way of this application, the applicant-appellant (here-in-after to be referred as 'the applicant') has prayed for condonation of the delay of 315 days in filing the appeal bearing ***RSA No.3887 of 2023***, while averring that on 10.04.2018, he had approached his counsel for filing an appeal to assail the judgment and decree dated 15.12.2017 and he (counsel) had asked him to bring the record of the trial Court for the above-said purpose and then, after procuring the copies of the afore-referred record, he had handed over the same to his counsel but however, the file/record had been got misplaced due to the negligence on the part of the Clerk of his counsel and thus, the above-mentioned delay is not an intentional one.

2. I have heard learned counsel for the applicant-appellant on the present application and have also gone through the file carefully.

3. As per the record, the appeal was filed on 31.01.2019. Though, the applicant has averred that he had approached his counsel on 10.04.2018 to

file an appeal in this Court against the judgment and decree dated 15.12.2017 and he (counsel) had asked him to bring the trial Court record for doing so but it is worth-while to mention here that the prescribed period of limitation, i.e 90 days, had already expired by the afore-mentioned day, when he (applicant) had visited his counsel for the above-said purpose and moreover, throughout in the instant application, he (applicant) has not even disclosed the dates of his moving an application to procure the copies of the afore-referred record and of the same having been supplied to him. To add to it, he has not annexed/ filed the affidavit(s) of his counsel/his (counsel's) Clerk regarding the record/ file of the case having been got misplaced.

4. In view of the above-discussed facts and circumstances, this Court is of the considered opinion that the afore-mentioned delay on the part of the applicant in filing the appeal, can safely be termed as an inordinate one and hence, it does not deserve to be condoned. Resultantly, the application in hand, being devoid of any merit, stands dismissed.

CM No.13921-C of 2023

This application has been moved on behalf of the applicant for seeking condonation of the delay of 1734 days in re-filing the appeal, by pleading that after the return of the paper-book in view of the objections, as raised by the Registry on filing the appeal, the Clerk of his counsel misplaced the same and then, Pandemic Covid-19 broke out and later-on, he came to know that the copies of the impugned judgment and decree were also required to be annexed with the appeal and hence, the appeal has been re-filed after procuring the above-said documents and appending the same with it.

2. I have heard learned counsel for the applicant on this application.

3. As discussed earlier, the applicant filed the appeal on 31.01.2019 after the delay of 315 days and thus, it becomes crystal clear that the same had become time-barred, much prior to the outbreak of the Pandemic in March, 2020 and application **CM No.13920-C of 2023**, as filed by him for seeking condonation of the afore-referred delay, has been dismissed. Even otherwise, a bare perusal of the paper-book shows that the Registry had raised certain objections on filing the appeal and it had been re-filed on 16.12.2022 and after excluding the period of relaxation/concession granted by the Apex Court due to the outbreak of the Pandemic, the Registry has worked out the period of the delay as 1023 days. Though in the instant application the applicant has again tried to explain the above-said delay on the same ground, as put-forth by him for justifying the delay in filing the appeal, that the Clerk of his counsel had misplaced the paper-book after its return by the Registry but the fact remains that he has not bothered to submit/annex the affidavit(s) of his counsel and/or his Clerk in support of his afore-referred plea/ground.

4. As a sequel to the fore-going discussion, it follows that the applicant has not been able to plausibly explain the above-mentioned delay in re-filing the appeal and therefore, the present application, being bereft of any merit, stands dismissed.

**RSA No.3887 of 2023 &
CMs No.13919-CII & 13922-CII of 2023 &
CM No.3073-C of 2024**

Consequent upon the dismissal of the afore-referred applications, as moved by the applicant-appellant for seeking condonation of the delay in filing and also in re-filing the instant appeal, it has to be held that this appeal also deserves dismissal on account of its having become hopelessly time-

barred. It being so, the Regular Second Appeal in hand, along-with the above-referred Miscellaneous Applications, stands dismissed accordingly.

25.04.2024
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(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned:	Yes
Whether Reportable:	No