

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(108) CM-1513-1516-C-2024 in/and
RSA-431-2024 (O&M)
Date of Decision : 22.02.2024

The Deputy Commissioner/Collector, Rohtak and others
.. Appellants

Versus

Azad Singh .. Respondent

(108/2) CM-1648-1651-C-2024 in/and
RSA-458-2024 (O&M)

State of Haryana and others
.. Appellants

Versus

Azad Singh .. Respondent

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Harish Rathee, Senior Deputy Advocate General, Haryana
for the applicant-appellants.

None for the respondent.

Harsimran Singh Sethi, J. (Oral)

CM-1515-C-2024 in/and RSA-431-2024 and
CM-1650-C-2024 in/and RSA-458-2024

1. Two appeals have been filed against the judgments and decrees of the courts below by which the suit filed by the respondent-plaintiff was allowed and the appeal filed by the appellants-defendants was dismissed.
2. Present applications have been filed seeking condonation of delay of 555 days in filing the appeals.

3. A bare perusal of the averments made in paragraph-3 of the applications would show that as per the opinion of the District Attorney, the case was not fit for filing the regular second appeal but the department wanted to file an appeal. The department took more than one year and 08 months to get a revised opinion from the office of the Advocate General, Haryana and even after getting the opinion on 09.11.2023, the appeals have been filed in the year 2024.

4. Learned counsel for the applicant-appellants submits that the said delay is bonafide and due to the procedure involved hence, the same may kindly be condoned.

5. I have heard learned counsel for the applicant-appellants and have gone through the file.

6. Once, the office of Advocate General, Haryana gave the opinion that the case was not fit for filing the appeal, it was only on the instance of the department that a revised opinion was given after one year and 08 months of the decision to file an appeal. Nothing has come on record as to what prevented the department in filing the appeals immediately by overruling the opinion given by the District Attorney on 06.04.2022, wherein, the department was advised not file appeal.

7. As per the settled principle of law settled by the Hon'ble Supreme Court of India in Civil Appeal No. 2474-2475 of 2012 titled as ***Office of the Chief Post Master General and others Vs. Living Media India Ltd. and another***, decided on 24.02.2012, each day's delay is to be explained so as to satisfy the Court that the delay caused was beyond the control of the applicants-appellants.

8. In the present case, not even a single reason has been mentioned to explain the delay of 555 days, which has occurred in filing the present regular second appeals.

9. The relevant paragraphs of the said judgment are as under:-

“2. The following issues arise for consideration:

a) Whether the Office of the Chief Post Master General has shown sufficient cause for condoning the delay of 427 days in filing SLPs before this Court. Depending on the outcome of the above issue, other issues to be considered are:

b) Whether the impugned advertisement inserted in the Reader's Digest issue of December, 2005 is in conformity with the requirement of law.

c) Whether the Department has made out a case for interference under Article 136 of the Constitution of India to reopen concurrent findings of fact rendered by the High Court.

13. In our view, it is the right time to inform all the Government bodies, their agencies and instrumentalities that unless they have reasonable and acceptable explanation for the delay and there was bona fide effort, there is no need to accept the usual explanation that the file was kept pending for several months/years due to considerable degree of procedural red-tape in the process. The Government departments are under a special obligation to ensure that they perform their duties with diligence and commitment. Condonation of delay is an exception and should not be used as an anticipated benefit for Government departments. The law shelters everyone under the same light and should not be swirled for the benefit of a few. Considering the fact that there was no proper explanation offered by the Department for the delay except mentioning of various dates, according to us, the Department has miserably failed to give any acceptable and cogent reasons sufficient to condone such a huge delay. Accordingly, the appeals are liable

to be dismissed on the ground of delay.

14. In view of our conclusion on issue (a), there is no need to go into the merits of the issues (b) and (c). The question of law raised is left open to be decided in an appropriate case. In the light of the above discussion, the appeals fail and are dismissed on the ground of delay. No order as to costs.

10. Further more, on expiry of the limitation period, the rights of the other party crystallizes and the crystallized right cannot be taken away merely on a bald statement of the applicant-appellants for seeking condonation of delay. Unless and until the delay is bona fide and the same occurred due to any fact, which was beyond the control of the applicant-appellants, the crystallized right in favour of the other party cannot be taken away hence, in the present case, as no justifiable reason has been given to condone 555 days delay, the applications are dismissed.

RSA-431-2024 and RSA-458-2024

11. As the applications seeking condonation of delay of 555 days in filing the appeals are dismissed, present appeals also stands dismissed.

**CM-1513-C-2024, CM-1514-C-2024 & CM-1516-C-2024 in RSA-431-2024 and
CM-1648-C-2024, CM-1649-C-2024 & CM-1651-C-2024 in RSA-458-2024**

12. As the main appeals are dismissed, present applications also stand dismissed.

13. A photocopy of this order be placed on the file of connected cases.

February 22nd, 2024
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No