

207 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA-1820-1993 (O&M)

Date of Decision: 09.02.2024

PUNJAB STATE AND OTHERS

...Appellants

Vs.

SOHAN LAL

...Respondent

CORAM:- HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Rohit Ahuja, DAG, Punjab.

Mr. G.S. Bal, Senior Advocate with
Mr. Laxman Choudhary, Advocate
for the respondent.

HARSIMRAN SINGH SETHI, J. (Oral)

In the present regular second appeal, the challenge is to the order passed by the Lower Appellate Court by which, the appeal filed by the State has been dismissed on the ground of delay as the application filed under Section 5 of the Limitation Act was rejected.

2. Learned counsel for the appellant submitted that there was only a delay of 58 days which was duly explained but, the Lower Appellate Court while passing the judgment dated 01.03.1993 has not accepted the application filed for condonation of delay and that too without any valid justification.

3. Learned senior counsel for the respondent/plaintiff submitted that in paragraph 9 of the judgment dated 01.09.1993, due reasons have been given for not accepting the application which is in consonance with the settled principle of law.

4. I have heard learned counsel for the parties and have gone through the order passed by the Lower Appellate Court dated 01.03.1993.

5. It may be noticed that the Lower Appellate Court has recorded the finding on the basis of evidence which has come on record that the limitation period for filing the appeal had expired and within the said limitation period, only the correspondence was done between the one department to the other rather than taking a concrete decision as to whether, the appeal is to be preferred or not.

6. Further, as per the settled principle of law, each day's delay is to be explained especially when the rights gets crystalized in favour of a particular party. As per the judgment of the Supreme Court of India in ***Civil Appeal No.2474-2475 of 2012 titled as Officer of the Chief Post Master General and others versus Living Media India Ltd and another, decided on 24.02.2012***, each day delay should be explained and mere the assertion that the delay is due to the administrative exigencies, cannot be accepted. In paragraph 13 of the said judgment, it has been held that even the State and its instrumentalities while filing an application for condonation of delay, have to show sufficient cause for the delay, before the same can be condoned. The Hon'ble Supreme Court of India has further held that mere explanation that the delay caused was due to procedural process or was unintentional, without any supporting evidence, cannot be accepted. The relevant paragraph of the judgment is as under:-

“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 bonafide 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.”

7. Keeping in view the fact that no cogent reason has been given before the Court below to condone the delay especially when the rights had already been created in favour of the respondent/plaintiff, hence no interference is called for by this court in the present regular second appeal and the same is accordingly dismissed.
8. Pending applications, if any shall also stands disposed of.

(HARSIMRAN SINGH SETHI)
(JUDGE)

08.02.2024
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No