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

CR-919-2025

Date of decision: 24.04.2025

Surinder Kumar

...Petitioner

Versus

Jawahar Lal

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. I.S. Kooner, Advocate for the petitioner.

VIKAS BAHL, J. (ORAL)

1. This is a revision petition filed under Article 227 of the Constitution of India for setting aside the order dated 10.12.2024 (Annexure P-5) passed by the Additional District Judge, Patiala vide which application seeking condonation of delay (Annexure P-3) filed by the respondent-plaintiff has been allowed.

2. Respondent-plaintiff in the year 2017, had filed a suit for mandatory injunction directing the defendant to vacate and hand over the vacant possession of the shop in question to him. The respondent-plaintiff had duly contested the case and after almost five years of trial, the suit was dismissed vide judgment and decree dated 27.07.2022. On 23.08.2023, an appeal under Section 96 of CPC was filed by the respondent-plaintiff along with the application for condonation of delay. In the application for condonation of delay, which has been annexed as Annexure P-3 along with the present revision petition, it was stated by the respondent-plaintiff that he



was 74 years of age and had suffered a heart problem and was rushed to Balaji Heart, Eye and Multispeciality Hospital, Opposite Dhindsa Petrol Pump, Bhadson Road, Patiala and was admitted in the said hospital on 18.07.2022 where he was treated by Dr. Amardeep Garg, Interventional Cardiologist and a stent had been implanted. It was further stated that at the time of discharge from the said hospital, the respondent-plaintiff being senior citizen was asked to maintain complete rest and not to move around and even after discharge, he remained under treatment. It was also stated that respondent-plaintiff had lost his wife Smt. Luxmi on 10.06.2020 during peak of COVID-19 pandemic. It was further stated that he had prosecuted the suit for more than five years and he had a good case on merits as it was him who was the owner of the property and he had given the suit property on licence to the present petitioner. Other pleas were also raised to explain the delay in filing the appeal. Affidavit in support of the said application was also filed which fact is apparent from the bare reading of para 8 of the said application (Annexure P-3).

3. The Appellate Court vide order dated 10.12.2024 allowed the said application for condonation of delay and fixed the case for arguments upon the main appeal. While allowing the said application, the First Appellate Court took into consideration the fact that the respondent-plaintiff was old age person and was keeping ill health. It was further observed that the suit of the respondent-plaintiff for mandatory injunction had been dismissed and thus, it was the plaintiff-respondent who would suffer loss on account of delay. Reliance was placed upon a judgment of the Hon'ble Supreme Court on the aspect of the Courts being lenient towards allowing



the application for condonation of delay.

4. It is a matter of settled law that every endeavour should be made by the Courts to decide the case on merits instead of technicalities. In the said regard, reference can be made to the judgment of the Honb'le Supreme Court in case titled as "**Collector, Land Acquisition, Anantnag and another Vs. Mst. Katiji and others reported as (1987) 2 Supreme Court Cases 107**", the relevant portion of which is as under: -

"xxx xxx xxx And such a liberal approach is adopted on principle as it is realized that:

- 1. Ordinarily a litigant does not stand to benefit by lodging an appeal late.*
- 2. Refusing to condone delay can result in a meritorious matter being thrown out at the very threshold and cause of justice being defeated. As against this when delay is condoned the highest that can happen is that a cause would be decided on merits after hearing the parties.*
- 3. "Every day's delay must be explained" does not mean that a pedantic approach should be made. Why not every hour's delay, every second's delay? The doctrine must be applied in a rational common sense pragmatic manner.*
- 4. When substantial justice and technical considerations are pitted against each other, cause of substantial justice deserves to be preferred for the other side cannot claim to have vested right in injustice being done because of a non-deliberate delay.*
- 5. There is no presumption that delay is occasioned deliberately, or on account of culpable negligence, or on account of mala fides. A litigant does not stand to benefit by resorting to delay. In fact he runs a serious risk.*
- 6. It must be grasped that judiciary is respected not on*



account of its power to legalize injustice on technical grounds but because it is capable of removing injustice and is expected to do so.

Making a justice-oriented approach from this perspective, there was sufficient cause for condoning the delay in the institution of the appeal.”

5. The said judgment of the Hon’ble Supreme Court has been followed by the Hon’ble Supreme Court in the case titled as **Dhiraj Singh(D) through LRs and others Vs. State of Haryana and others**, reported as **(2014) 14 SCC 127**.

6. Learned counsel for the petitioner has submitted that in the present case, the reasons given in the application (Annexure P-3) do not show sufficient cause and it is submitted that the application is meritless and thus, deserves to be rejected and the impugned order vide which delay has been condoned, deserves to be set aside.

7. From the facts stated hereinabove, this Court is of the opinion that the reasons mentioned in the application (Annexure P-3) are sufficient to condone the delay as it could not be disputed that the respondent-plaintiff is more than 74 years of age and it was his case that he had suffered heart problem and also had a stent implanted during the time when the trial Court had decided the suit. Moreover, it is the suit of the respondent-plaintiff for mandatory injunction seeking possession from the present petitioner which was dismissed and against which the appeal has been filed and thus, delay in the proceedings would primarily harm the respondent-plaintiff.

8. The Hon'ble Supreme Court in the case of **“Shalini Shyam Shetty and another Vs. Rajendra Shankar Patil”**, reported as **(2010) 8**



Supreme Court Cases 329, had observed that the High Courts cannot, at the drop of a hat, in exercise of its power of superintendence under Article 227 of the Constitution, interfere with the orders of tribunals or courts inferior to it. Nor can it, in exercise of this power, act as a court of appeal over the orders of court or tribunal subordinate to it. It was also observed in the said judgment that a statutory amendment with respect to Section 115 of the Civil Procedure Code does not and cannot cut down the ambit of High Court's power under Article 227 but at the same time, it must be remembered that such statutory amendment does not correspondingly expand the High Court's jurisdiction of superintendence under Article 227. The power of interference under this Article is to be kept to the minimum to ensure that the wheel of justice does not come to a halt and the fountain of justice remains pure and unpolluted in order to maintain public confidence in the functioning of the tribunals and courts subordinate to the High Court. It was also observed that the power under Article 227 may be unfettered but its exercise is subject to high degree of judicial discipline.

9. Keeping in view the abovesaid facts and circumstances, this Court is of the opinion that the impugned order does not call for any interference by this Court while exercising its powers under Article 227 of the Constitution of India and accordingly, the impugned order is upheld and the present revision petition being meritless, deserves to be dismissed and is accordingly, dismissed.

24.04.2025

Pawan

Whether speaking/reasoned:-
Whether reportable:-

(VIKAS BAHL)
JUDGE

Yes/No
Yes/No