

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

289

CR No.3668 of 2024 (O&M)

Reserved on: 26.03.2025

Pronounced on:09.05.2025

Mange Ram (since deceased) through LRs**.....Petitioners****Versus****Banwari Lal****..... Respondent****CORAM: HON'BLE MR.JUSTICE VIKRAM AGGARWAL****Argued By:** Mr. Naveen S. Bhardwaj, Advocate for the petitioner.

Mr. Parveen Sharma, Advocate for

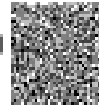
Mr. Abhimanyu Singh, Advocate for the respondent.

VIKRAM AGGARWAL, J.

The present revision petition is directed against the order dated 15.05.2024 (Annexure-P1), passed by the Court of District Judge, Bhiwani, vide which the application filed by the petitioners under Section 5 of the Limitation Act, 1963 (for short 'the 1963 Act') seeking condonation of delay of 649 days in filing the appeal was dismissed.

2. Shorn of unnecessary details, as per the factual matrix, the respondent/plaintiff (Banwari Lal) instituted a suit for recovery of Rs. 13,00,000/- along with agreed interest @ Rs.2/- per hundred per month w.e.f. 05.07.2013 to 05.07.2016 on the basis of a pronote dated 05.07.2013 stated to have been executed by defendant Mange Ram (grand father of the present petitioners) (petitioners are the LRs of Mange Ram). The suit was decreed vide judgment and decree dated 12.07.2022 (Annexure-P2) by the Court of learned Additional Civil Judge (Sr. Divn.), Loharu.

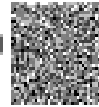
3. The present petitioner(s) who are the grandsons of Mange Ram



and sons of Sunil Kumar instituted an appeal (Annexure-P6) against the said judgment decree. The appeal was accompanied by an application (Annexure-P7) under Section 5 of the 1963 Act for condonation of delay of 649 days in filing the appeal. It was averred in the said application that Mange Ram was suffering from a chronic disease, as a result of which, he expired on 29.12.2022. He did not disclose anything about the judgment and decree dated 12.07.2022 to any family member including the petitioners. However, when two weeks prior to the institution of the appeal, revenue officials came to the village for the auction of the land of Mange Ram, the petitioners came to know about the judgment and decree dated 12.07.2022. It was averred that Mange Ram had expired on 29.12.2022 and before that, he had executed a Will dated 15.11.2022 (Annexure-P4) in favour of the petitioners, pursuant to which mutation (Annexure-P5) was sanctioned. It was also averred that father of the petitioners was a drunkard, as a result of which, the petitioners and their mother had been living separately from him. Under the circumstances, the petitioners prayed for condonation of delay of 649 days in filing the appeal.

4. The application for condonation of delay was opposed by way of a reply (Annexure-P8). It was averred that the petitioners and their family members had been watching the proceedings and only when the land of Mange Ram was put to auction, the appeal was filed. It was also averred that no documents as regards the illness of Mange Ram had been placed on record nor the delay had been satisfactorily explained. It was also averred that no specific date had been mentioned on which the appellant had come to know about the pendency of the execution proceedings. As regards the Will, it was averred that the same was the result of collusion and a false story had been framed.

5. By way of the impugned order, the application for condonation of

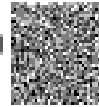


delay, and consequently, the appeal was dismissed leading to the filing of the present revision petition.

6. Learned counsel for the parties were heard.

7. It was submitted by learned counsel for the petitioners that the impugned order is not sustainable. Referring to the documents on record, it was submitted that the Court concerned did not examine the matter from the correct perspective. Learned counsel submitted that it is settled law that matters should be heard on merits and should not be rejected on technicalities. He submitted that in fact, Mange Ram had expired shortly after the judgment and decree dated 12.07.2022 was passed, as a result of which, he could not assail the same and in all probability, he himself also would not have acquired knowledge about the same since he was unwell. It was submitted that the Court of District Judge, Bhiwani, further erred in summarily dismissing the application without framing any issue upon the same.

8. Per contra, learned counsel for the respondent submitted that there is no illegality in the impugned order and that the Court concerned examined the matter from the correct perspective. Learned counsel submitted that the judgment and decree was passed on 12.07.2022 in the presence of the counsel for Mange Ram and it can not, therefore, be accepted that Mange Ram was not aware of the said decision. It was submitted that with a view to avoid the judgment and decree, it appears that Mange Ram executed a Will dated 15.11.2022. It was submitted that no record was produced to prove that Mange Ram was unwell or that the father of the petitioners was a drunkard. Learned counsel submitted that delay cannot be and should not be condoned on the mere asking and the party concerned is duty bound to explain the day to day delay in filing of an appeal.



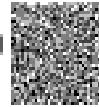
9. I have considered the submissions made by learned counsel for the parties.

10(i). The 1963 Act was enacted with a certain object. Till 1859, there was no definite law of limitation and regulations were passed from time to time for fixing the period of limitation for initiation of action. For the first time in the year 1859, a law on the subject of limitation was passed by Act XIV of 1859 which came into operation in 1862. The Act of 1859 was followed by the Act XIX of 1871 followed by Act XV of 1877. Finally, limitation Act, 1908 was passed which continued in operation for a long period. Ultimately, the Law Commission made various recommendations in its 3rd report dated 27.07.1956. A limitation Bill was, therefore, introduced in the Lok Sabha on 23.12.1960 but it lapsed on account of dissolution of the Lok Sabha and accordingly, it was again introduced in the Parliament in 1962. It was then that Act No.36 of 1963 i.e. the present Act came into force w.e.f. 01.01.1964. It defines 'period of limitation' under Section 2 (j);

“period of limitation” means the period of limitation prescribed for any suit, appeal or application by the Schedule, and “prescribed period” means the period of limitation computed in accordance with the provisions of this Act.”

10(ii). Section 5 provides for extension of the prescribed period in certain cases and lays down as under:-

5. Extension of prescribed period in certain cases.—Any appeal or any application, other than an application under any of the provisions of Order XXI of the Code of Civil Procedure, 1908 (5 of 1908), may be admitted after the prescribed period if the appellant or the applicant satisfies the court that he had sufficient cause for not preferring the appeal or making the application within such period.

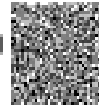


Explanation.—The fact that the appellant or the applicant was misled by any order, practice or judgment of the High Court in ascertaining or computing the prescribed period may be sufficient cause within the meaning of this section.

10(iii). The periods of limitation are provided in the schedule attached to the 1963 Act. The legislature was, therefore, conscious of the fact that certain time periods and limits need to be fixed for initiation of action. Accordingly, different period of limitations were provided for different actions.

10(iv). Then arose the question as to whether Courts should be strict or they should be liberal in condoning the delay in initiating different kinds of action.

10(v). The basic law is that the Courts should be liberal in condoning the delay but only upto a certain extent. However, the concept of ‘liberal approach, justice oriented approach, substantial justice’ cannot be employed to jettison the substantive law of limitation. It was so held by the Supreme Court of India in the case of ***Lanka Venkateswarlu v. State of Andhra Pradesh, AIR 2011 SC 1199***. Further, though, vide different judgments, the State has been given more leverage as regards delay that occurs in initiating action and condonation thereof, the Act does not make any distinction between the State and the citizens. It was held by the Supreme Court of India in the case of ***Indian Oil Corporation Ltd. v. Subrata Borah Chowlek, (2010) 12 SCALE 209 : 2010 (262) ELT 3*** that adopting a strict standard of proof in the case of the Government which is dependent on the actions of its officials, who often do not have any personal interest in its transactions may lead to grave miscarriage of justice and, therefore, certain amount of latitude is permissible in such cases.



10(vi). As per Section 5 of the Limitation Act, if sufficient cause is shown for not preferring an appeal or an application (other than an application under the provisions of Order XXI CPC) within the prescribed period, the same may be admitted after the prescribed period as well. In the case of *Esha Bhattacharjee versus Managing Committee of Raghunathpur Nafar Academy and others 2013 (4) RCR (Civil) 785*, the Hon'ble Apex Court culled out the principles with regard to condonation of delay;

“From the aforesaid authorities the principles that can broadly be culled out are:

(i) There should be a liberal, pragmatic, justice-oriented, non-pedantic approach while dealing with an application for condonation of delay, for the courts are not supposed to legalise injustice but are obliged to remove injustice.

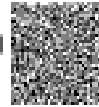
(ii) The terms "sufficient cause" should be understood in their proper spirit, philosophy and purpose regard being had to the fact that these terms are basically elastic and are to be applied in proper perspective to the obtaining fact-situation.

(iii) Substantial justice being paramount and pivotal the technical considerations should not be given undue and uncalled for emphasis.

(iv) No presumption can be attached to deliberate causation of delay but, gross negligence on the part of the counsel or litigant is to be taken note of.

(v) Lack of bona fides imputable to a party seeking condonation of delay is a significant and relevant fact.

(vi) It is to be kept in mind that adherence to strict proof



should not affect public justice and cause public mischief because the courts are required to be vigilant so that in the ultimate eventuate there is no real failure of justice.

(vii) The concept of liberal approach has to encapsule the conception of reasonableness and it cannot be allowed a totally unfettered free play.

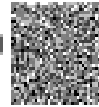
(viii) There is a distinction between inordinate delay and a delay of short duration or few days, for to the former doctrine of prejudice is attracted whereas to the latter it may not be attracted. That apart, the first one warrants strict approach whereas the second calls for a liberal delineation.

(ix) The conduct, behaviour and attitude of a party relating to its inaction or negligence are relevant factors to be taken into consideration. It is so as the fundamental principle is that the courts are required to weigh the scale of balance of justice in respect of both parties and the said principle cannot be given a total go by in the name of liberal approach.

(x) If the explanation offered is concocted or the grounds urged in the application are fanciful, the courts should be vigilant not to expose the other side unnecessarily to face such a litigation.

(xi) It is to be borne in mind that no one gets away with fraud, misrepresentation or interpolation by taking recourse to the technicalities of law of limitation.

(xii) The entire gamut of facts are to be carefully scrutinised and the approach should be based on the

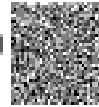


paradigm of judicial discretion which is founded on objective reasoning and not on individual perception.

(xiii) The State or a public body or an entity representing a collective cause should be given some acceptable latitude.”

10(vii). Still further, in the case of *Basawaraj and another versus Special Land Acquisition Officer 2013 (14) SCC 81*, the Hon’ble Supreme Court of India was dealing with a judgment of the High Court of Karnataka wherein the appeals filed by the appellants had been dismissed on the ground of limitation. In this case also, the Apex Court examined as to what would amount to a sufficient cause as defined under Section 5 of the Limitation Act. It was held that the expression “sufficient cause” should be given a liberal interpretation to ensure that substantial justice is done but only so long as negligence, inaction or lack of bonafidies cannot be imputed to the party concerned. It was held that whether or not sufficient cause had been shown, could be decided on the facts of a particular case and no straitjacket formula was possible. In this case, there was a delay of 5 ½ years in filing the appeal and the High Court of Karnataka had dismissed the appeals on the ground of limitation. The Apex Court, after examining the facts of the case and law on the subject, declined to interfere in the decision of the Karnataka High Court and, therefore, rejected the appeals. It was held by the Apex Court as under:-

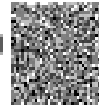
“9. Sufficient cause is the cause for which defendant could not be blamed for his absence. The meaning of the word "sufficient" is "adequate" or "enough", inasmuch as may be necessary to answer the purpose intended. Therefore, the word "sufficient" embraces no more than that which provides a platitude, which when the act done suffices to accomplish



the purpose intended in the facts and circumstances existing in a case, duly examined from the view point of a reasonable standard of a cautious man. In this context, "sufficient cause" means that the party should not have acted in a negligent manner or there was a want of bona fide on its part in view of the facts and circumstances of a case or it cannot be alleged that the party has "not acted diligently" or "remained inactive". However, the facts and circumstances of each case must afford sufficient ground to enable the Court concerned to exercise discretion for the reason that whenever the Court exercises discretion, it has to be exercised judiciously. The applicant must satisfy the Court that he was prevented by any "sufficient cause" from prosecuting his case, and unless a satisfactory explanation is furnished, the Court should not allow the application for condonation of delay. The court has to examine whether the mistake is bona fide or was merely a device to cover an ulterior purpose.(See: Manindra Land and Building Corporation Ltd. v. Bhootnath Banerjee & Ors., AIR 1964 Supreme Court 1336 ; Lala Matadin v. A. Narayanan, AIR 1970 Supreme Court 1953 ; Parimal v. Veena @ Bharti, 2011(2) RCR (Civil) 155 : 2011(1) Recent Apex Judgments (R.A.J.) 611 and Maniben Devraj Shah v. Municipal Corporation of Brihan Mumbai, AIR 2012 Supreme Court 1629.

10. In Arjun Singh v. Mohindra Kumar, AIR 1964 Supreme Court 993 this Court explained the difference between a "good cause" and a "sufficient cause" and observed that every "sufficient cause" is a good cause and vice versa. However, if any difference exists it can only be that the requirement of good cause is complied with on a lesser degree of proof that of "sufficient cause".

11. The expression "sufficient cause" should be given a liberal interpretation to ensure that substantial justice is done, but

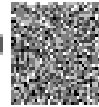


only so long as negligence, inaction or lack of bona fides cannot be imputed to the party concerned, whether or not sufficient cause has been furnished, can be decided on the facts of a particular case and no straitjacket formula is possible. (Vide: Madanlal v. Shyamlal, 2002(2) RCR (Civil) 361; and Ram Nath Sao @ Ram Nath Sahu & Ors. v. Gobardhan Sao & Ors., 2002(2) RCR (Civil) 337.

12. It is a settled legal proposition that law of limitation may harshly affect a particular party but it has to be applied with all its rigour when the statute so prescribes. The Court has no power to extend the period of limitation on equitable grounds. "A result flowing from a statutory provision is never an evil. A Court has no power to ignore that provision to relieve what it considers a distress resulting from its operation." The statutory provision may cause hardship or inconvenience to a particular party but the Court has no choice but to enforce it giving full effect to the same. The legal maxim "dura lex sed lex" which means "the law is hard but it is the law", stands attracted in such a situation. It has consistently been held that, "inconvenience is not" a decisive factor to be considered while interpreting a statute.

13. The Statute of Limitation is founded on public policy, its aim being to secure peace in the community, to suppress fraud and perjury, to quicken diligence and to prevent oppression. It seeks to bury all acts of the past which have not been agitated unexplainably and have from lapse of time become stale. According to Halsbury's Laws of England, Vol. 24, p. 181:

"330. Policy of Limitation Acts. The courts have expressed at least three differing reasons supporting the existence of statutes of limitations namely, (1) that long dormant claims have more of cruelty than justice in them, (2) that a defendant might have lost the evidence to disprove a stale claim, and (3) that persons with good



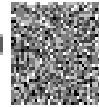
causes of actions should pursue them with reasonable diligence".

An unlimited limitation would lead to a sense of insecurity and uncertainty, and therefore, limitation prevents disturbance or deprivation of what may have been acquired in equity and justice by long enjoyment or what may have been lost by a party's own inaction, negligence' or laches.

(See: Popat and Kotecha Property v. State Bank of India Staff Assn., 2005(4) RCR (Civil) 334 : (2005) 7 SCC 510 Rajendar Singh & Ors. v. Santa Singh & Ors., AIR 1973 Supreme Court 2537 and Pundlik Jalam Patil v. Executive Engineer, Jalgaon Medium Project, (2008) 17 SCC 448

14. In P. Ramachandra Rao v. State of Karnataka, 2002(2) RCR (Criminal) 553, this Court held that judicially engrafting principles of limitation amounts to legislating and would fly in the face of law laid down by the Constitution Bench in A. R. Antulay v. R.S. Nayak, 1992(2) RCR (Criminal) 634."

10(viii). The law on the issue can be summarised to the effect that where a case has been presented in the court beyond limitation, the applicant has to explain to the Court as to what was the "sufficient cause" which means an adequate and enough reason which prevented it from approaching the Court within limitation. In case a party is found to be negligent, or for want of *bonafides* on its part in the facts and circumstances of the case, or found to have not acted diligently or remained inactive, there cannot be a justified ground to condone the delay. No court could be justified in condoning such an inordinate delay by imposing any condition whatsoever. The application is to be decided only within the parameters laid down by courts with regard to condonation of delay. In case there was no sufficient cause to prevent a litigant to approach the court on time, condoning the delay without any justification by

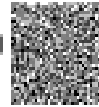


simply putting same condition, amounts to passing an order in violation of the statutory provisions and it tantamounts to showing utter disregard to the legislation.

11. Reverting to the facts of the case, the judgment and decree vide which the suit was decreed was passed on 12.07.2022 in the presence of the counsel for Mange Ram. Mange Ram expired on 29.12.2022 i.e. more than 5 months after the said decision. As per the petitioners, Mange Ram was unwell. However, the Will (Annexure P-4) does not contain any such recital. In fact, it is mentioned in the Will that the Will had been prepared by Mange Ram in full consciousness and with a sound mind. Had Mange Ram been unwell, he would at least have made a mention about the same in the Will. No documents/medical record to even *prima facie* prove that Mange Ram was unwell was produced.

12. Another ground taken by the petitioners was that their father Sunil was a drunkard, as a result of which, they along with their mother were living separately. Again, no document to even *prima facie* prove this fact was placed on record. In fact, again, coming back to the Will, Mange Ram duly stated in the Will that his son Sunil used to take lot of care of him and obeyed his each and every instruction and that he was happy with the care that Sunil was taking of him. There is not even a whisper in the entire Will about Sunil being a drunkard or that his daughter-in-law was living separately from Sunil along with her sons.

13. It appears that the entire case has been set up with a view to make out a ground to avoid the decree and to avoid the execution. No doubt, it is settled law that matters should normally be decided on merits and should not be rejected on technicalities. It is also settled law that Courts should be liberal



in condoning the delay, provided sufficient cause is shown for the same. In the considered opinion of the Court, leave aside sufficient cause, even the bonafides of the petitioners are in dispute. At the cost of repetition, it needs to be reiterated that after having suffered the decree on 12.07.2022, Mange Ram executed a Will on 15.11.2022 and expired on 29.12.2022. If he was in sound disposing mind on 15.11.2022, how he was not aware of the judgment and decree having been passed against him is incomprehensible. The Court of District Judge Bhiwani, considered the matter from the correct perspective and rejected the application for condonation of delay of 649 days in filing the appeal.

14. It also has to be borne in mind that limitation is provided with a purpose. The limitation for filing an appeal against a judgment and decree passed by the trial Court is 30 days. There has to be finality to every *lis*. No one can be permitted to misuse and abuse the provisions of law which the legislature has enacted to protect the *bona fide* and genuine litigants.

15. In view of the aforesaid facts and circumstances, I do not find any illegality in the decision rendered by the learned District Judge, Bhiwani, warranting interference.

16. In view of the same, I do not find any merit in the present revision petition and the same is accordingly dismissed.

Pending application(s), if any, shall also stand disposed of.

(VIKRAM AGGARWAL)
JUDGE

Pronounced on 09.05.2025

Manoj Bhutani

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