

2025:PHHC:109342



Date of Decision: 20.08.2025

VERSUS

... RESPONDENTS

Present:- Mr. Ishan Aggarwal, Advocate for the appellants.

Applicants have sought condonation of delay of 2471 days in present appeal.

2. Simple case of the appellants is that appellant No.1 - Kishan Lal was pursuing the appeal but he died on 07.04.2014 during the pendency of the appeal. The remaining appellants as well as LRs of Kishan Lal were not aware about the decision of the appeal. Appellants came to know about the decision only when respondents had tried to dispossess them and thereafter, they contacted their counsel and filed the appeal. It was asserted that the delay is not intentional. They always thought that their appeal is still pending.

3. On consideration, I do not find reasons of delay to be bonafide.

4. It is worth noticing that suit for declaration and permanent

injunction was preferred by four plaintiffs namely Kishan Lal - plaintiff no.1, Somoti - plaintiff no.2, Daya - plaintiff no.3 and Bhagwanti - plaintiff no.4. Admittedly, the learned First Appellate Court had dismissed the suit of plaintiff on 03.03.2014. Thereafter, first appeal duly signed by Kishan Lal was filed on 05.04.2014 and plaintiff Kishan Lal is stated to have died on 07.04.2014. It is the case of LRs that they never knew regarding pendency of appeal. However, it is pertinent to note that the appeal was duly pursued by other plaintiffs/ appellants before the Appellate Court. The Appellate Court had also dismissed the appeal as well as suit vide judgment and decree dated 03.11.2015. It is worth noticing that Smt. Somoti i.e. plaintiff no.2 and another plaintiff had duly challenged the impugned judgments dated 03.03.2014 as well as judgment and decree dated 03.11.2015 before this Court. The RSA No. 1782 of 2016 preferred by co-plaintiff Somoti and another was dismissed by this Court vide its order dated 04.09.2018. Concurrent findings of facts recorded by both the Courts were upheld.

5. Co-plaintiffs have already failed to succeed before this Court and their appeal stood dismissed by this Court wayback in the year 2018. The grounds taken for condonation of delay by applicant i.e. LRs of Kishan Lal are totally a made up story. The judgment and decree by First Appellate Court was passed on 03.11.2015 and thereafter, co-plaintiffs have already availed their right of second appeal which has not found favour with this Court and RSA preferred by them stands dismissed. Therefore, it cannot be held that plaintiffs were not aware about the dismissal of regular second appeal by their co-plaintiffs. Plaintiffs are only taking advantage of the fact that they were not impleaded LRs of Kishan Lal in the appeal. Applicants

have therefore, failed to justify the reasons for delay for condonation in delay. Application for condonation of delay is dismissed. Appeal is time-barred.

6. Hence the appeal is also dismissed.

20.08.2025
Janki

(PARMOD GOYAL)
JUDGE

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