



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

126

CR-5944-2024 (O&M)

Date of Decision : 28.04.2025

DAVINDER SINGH

.... Petitioner

VERSUS

KULWARAN SINGH AND ORS

.... Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Arjun Sood, Advocate for the petitioner.

ALKA SARIN, J. (ORAL)

1. The present revision petition has been filed under Article 227 of the Constitution of India challenging the order dated 03.07.2024 (Annexure P-4) passed by the learned Additional District Judge, SBS Nagar whereby the application filed by the plaintiff-petitioner herein under Order 41 Rule 3A CPC and Section 5 of the Limitation Act, 1963 was dismissed.

2. Brief facts relevant to the present *lis* are that the plaintiff-petitioner filed a suit for possession of 1/3rd share of the land measuring 102K-8M which was dismissed vide judgment and decree dated 20.10.2016 passed by the Trial Court. Aggrieved by the same an appeal was preferred by the plaintiff-petitioner along with an application under Order 41 Rule 3A CPC and Section 5 of the Limitation Act, 1963 for condoning the delay in filing the appeal. It was stated in the application that the plaintiff-petitioner was not aware of the technicalities of law and that the judgment was pronounced by the Trial Court on 20.10.2016 and a copy of the same was

applied for on 02.11.2017 and the same was delivered on 03.11.2017 and immediately on receipt of the same, the appeal was filed. No further reasons have been given in the application. Reply was filed to the said application. Vide the impugned order dated 03.07.2024 the application was dismissed. Aggrieved by the same, the present revision petition has been filed.

3. Learned counsel for the plaintiff-petitioner would contend that the plaintiff-petitioner was not aware of the judgment and decree dated 20.10.2016 passed by the Trial Court as he could not contact his counsel as he was suffering from various ailments.

4. Heard.

5. In the present case the First Appellate Court had framed the following issues :

(i) Whether there is sufficient cause with the applicant for not filing the appeal within limitation ? OPA

(ii) Whether the applicant has not come to the Court with clean hands ? OPR

(iii) Relief.

Specific findings have been returned by the First Appellate Court while dealing with the application wherein it had been noticed that the plaintiff-petitioner in his cross-examination had clearly stated that he had knowledge of the passing of the judgment and decree dated 20.10.2016 as he himself remained present in Court on the said date. He further admitted that even his counsel had informed him about the passing of the judgment and decree dated 20.10.2016. It was further admitted that he applied for the copy

of the same after 13 days of the date of pronouncement and he got the same within two days thereafter. However, nothing had been brought on record as to why the appeal was filed after such a long period. The First Appellate Court further observed that no explanation was forthcoming from the application as to why the appeal was now being filed after a period of more than 1 year. Even before this Court there is no explanation forthcoming for the delay in filing the appeal. In view thereof, no fault can be found with the impugned order passed by the learned First Appellate Court.

6. In view of the above, I do not find any merit in the present revision petition and the same being devoid of any merit is accordingly dismissed. Pending applications, if any, also stand disposed off.

28.04.2025

Aman Jain

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: Yes/No