



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
207 RSA-4198-2018(O&M)
Date of decision: 29.11.2025

Sunder Lal Jain (since deceased) through LR

...Appellant(s)

Vs.

Som Nath & Others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Adarsh Jain, Senior Advocate with
Ms. Kamaldeep Kaur, Advocate
Mr. Harpreet Singh, Advocate
for the appellant.

NIDHI GUPTA, J.
CM-11153-C-2018

This is an application under Section 151 CPC for condonation
of delay of 1916 days in re-filing the appeal.

The only reason given for condoning such inordinate delay is
in Para 2 of the application, as under: -

*"2. That the above appeal was filed in this Hon'ble court on
19.12.2012 and in those days the case was not entertained in
the name of deceased person and the above appeal was filed
as Kulbhushan Jain, the legal heir of deceased plaintiff. Some
objections were raised and the paper book was returned. The
original paper book remained kept in the brief and while re-
arranging office during Summer Vacations, the brief was
located and has been re-filed."*



The Law of Limitation is enacted with a purpose, as a handmaid of Justice and cannot be ignored/reduced to an ineffective piece of legislation by giving it the complete go-by. With passage of time, rights of the parties get crystallised. It is the bounden duty of every litigant to pursue his case diligently; and it is also the bounden duty of this Court to ensure that justice inures to both parties concerned.

More so, the Hon'ble Supreme Court in ***Pathapati Subba Reddy (Died) by LRs and others vs. The Special Deputy Collector (LA), Law Finder Doc Id # 2542600***, has recently held as under:-

"26. On a harmonious consideration of the provisions of the law, as aforesaid, and the law laid down by this Court, it is evident that:

- (i) Law of limitation is based upon public policy that there should be an end to litigation by forfeiting the right to remedy rather than the right itself;*
- (ii) A right or the remedy that has not been exercised or availed of for a long time must come to an end or cease to exist after a fixed period of time;*
- (iii) The provisions of the Limitation Act have to be construed differently, such as Section 3 has to be construed in a strict sense whereas Section 5 has to be construed liberally;*
- (iv) In order to advance substantial justice, though liberal approach, justice-oriented approach or cause of substantial justice may be kept in mind but the same cannot be used to defeat the substantial law of limitation contained in Section 3 of the Limitation Act;*



- (v) Courts are empowered to exercise discretion to condone the delay if sufficient cause had been explained, but that exercise of power is discretionary in nature and may not be exercised even if sufficient cause is established for various factors such as, where there is inordinate delay, negligence and want of due diligence;
- (vi) Merely some persons obtained relief in similar matter, it does not mean that others are also entitled to the same benefit if the court is not satisfied with the cause shown for the delay in filing the appeal;
- (vii) Merits of the case are not required to be considered in condoning the delay; and
- (viii) Delay condonation application has to be decided on the parameters laid down for condoning the delay and condoning the delay for the reason that the conditions have been imposed, tantamounts to disregarding the statutory provision."

(Emphasis added)

It is my considered view that keeping in mind the totality of the facts and circumstances of the case, the reasons cited by the applicant for condonation of delay, did not constitute sufficient cause. In view of above, present application is **dismissed**.

MAIN CASE

The plaintiff is in Second Appeal against the concurrent judgments and decrees of the learned Courts below whereby suit filed by the appellant for specific performance of Contract of Sale dated 25.07.1997, has been dismissed by both the Courts below.



2. It is not denied by learned counsel for the appellant that for seeking specific performance of Contract dated 25.07.1997, the appellant had preferred the instant suit only on 07.11.2006. As such, the Civil Suit itself was filed with substantial delay.

3. Learned counsel for the plaintiff has also not denied that before the trial Court the plaintiff has failed to adduce any evidence despite availing sufficient opportunities including sufficient number of last opportunities. Learned counsel for the appellant is not able to dispute that despite availing several effective opportunities, not an iota of evidence was led by the plaintiff to prove his case. The plaintiff did not even step into the witness box in support of his case. Admittedly, issues were framed in the matter on 15.04.2009 and thereafter, ten opportunities were granted to the plaintiff to lead evidence, however, the plaintiff failed to do so. As such, vide order dated 18.11.2011, evidence of the plaintiff was closed by order.

4. Thereafter, defendant had expired during the proceedings. But no application for impleading LR's of the defendant was moved by the appellant. Record further reveals that the plaintiff had even failed to serve the notice required as per law to the legal heirs of the defendant, if any.

5. In this situation, reliance may be placed upon judgment of Hon'ble Supreme Court in **Shiv Cotex v. Tirgun Auto Plast P. Ltd. (SC) : Law Finder Doc Id # 271160**, relevant part of which is as under:-



“C. Civil Procedure Code, Order 17, Rule 1 - Grant of adjournments during pendency of suit - Adjournments have grown like cancer corroding the entire body of justice delivery system - It is sad, but true, that the litigants seek and the courts grant adjournments at the drop of hat - Though provisions of Order 17 Rule 1 of C.P.C. are not mandatory, but adjournments beyond three may be granted for justifiable cause - Justifiable cause means a cause which is not only sufficient cause as contemplated under Order 17 Rule 1 of C.P.C., but unavoidable and sort of compelling necessity like sudden illness of the litigant or the witness or the lawyer; death in the family of any one of them; natural calamity like floods, earthquake, etc. in the area where any of these persons reside; an accident involving the litigant or the witness or the lawyer on way to the Court and such like cause - The list is only illustrative and not exhaustive...”

6. In view of the above, present appeal is **dismissed** on grounds of delay as well as on merits.

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

(Nidhi Gupta)
Judge

29.11.2025

Sunena

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