



In the High Court of Punjab and Haryana, at Chandigarh

Second Appeal Order No. 22 of 2015 (O&M)

Date of Decision: 25.03.2025

Punjab Wakf Board

... Appellant(s)

Versus

Baldev Singh

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Ghulam Nabi Malik, Advocate
for the appellant(s).

Mr. C.L.Sharma and Ms. Shaily Sharma, Advocates
for the respondent.

Anil Kshetarpal, J.

1. The Punjab Wakf Board (hereinafter referred to as “the Board”) assails the correctness of the First Appellate Court’s order refusing to condone the delay of 590 days in filing the first appeal.

2. The plaintiff (the appellant herein) has filed a suit with respect to the land measuring 11 kanals 13 marlas and it was partly decreed with respect to the land measuring 2 kanals on 25.07.2011. However, the learned counsel representing the Board wrote on the brief that the suit has been decreed. Hence, the appeal could not be filed within the prescribed period of limitation.

3. Subsequently, when the Board came to know of the aforesaid development, the appeal was filed. The First Appellate Court refused to condone the delay on the ground that the appellant claimed that they have engaged Mr. M.S.Mathon, Advocate, whereas the presence of Mr.J.P.Walia, Advocate, has been recorded. The view taken by the First Appellate Court is

myopic and suffers from error. The First Appellate Court is the last Court of facts and law. The appellant Board claims to be the owner of the property measuring 11 kanals 13 marlas. The Board has filed a suit for possession and recovery of mesne profits which was partly decreed. The defendant admits that the Board is the owner of the property, but he is not in authorized possession. He claims to be in lawful possession of the property as a tenant/lessee. In such circumstances, the appellant Board should have been granted an opportunity to get its first appeal adjudicated on merits. While dealing with the applications for condonation of delay, the Court is required to take a holistic view while adopting a pragmatic approach. In this case, the First Appellate Court has erred in dismissing the application. Whether Mr.J.P.Walia, Advocate, has represented the Board or Mr. M.S.Mathon, Advocate, would not make any difference particularly when the Board claims that it was misled into believing that its suit has been decreed.

4. Keeping in view the aforesaid facts, the present appeal is allowed and the impugned order is set aside. The First Appellate Court is directed to decide the first appeal on merits. The parties, through their learned counsel, are directed to appear before the First Appellate Court on 24.04.2025.

5. The miscellaneous application(s) pending, if any, shall stand disposed of.

(Anil Kshetarpal)
Judge

March 25, 2025

“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No