



IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

229

CR-945-2017 (O&M)

Date of decision: 24.07.2025

Madan Mohan Singh (Dead) through his LR Anita Salaria

..... Petitioner

Versus

Gian Singh and others

..... Respondents

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

PRESENT: Mr. Sandeep Godara, Advocate for
Mr. APS Rehan, Advocate for the petitioner.

Mr. Vishal Aggarwal, Advocate for respondent No. 1.

NIDHI GUPTA, J.

CM-17055-CII-2017

Application is allowed, as prayed for.

Copy of judgment and decree dated 19.02.2005, passed by learned Civil Judge (Junior Division), Pathankot, is taken on record as Annexure P-5.

CR-945-2017

1. The present revision petition has been filed by the plaintiff under Article 227 of the Constitution of India, for setting aside the impugned order dated 20.07.2015 (Annexure P-2) passed by the learned Additional District Judge, Gurdarapur, in Civil Appeal No. 89/2005, titled as 'Madan Mohan Singh vs. Gian Singh Etc.' whereby the petitioner-plaintiff's application for restoration of aforesaid appeal was dismissed.



2. Learned counsel for the petitioner, *inter alia*, submits that the learned Lower Appellate Court had not appreciated the fact that the late father of the petitioner was an old man of 74/75 years age and was suffering from various old age-related diseases. As such, he could not properly instruct his counsel in the Court below. Father of the petitioner had expired on 20.04.2013 because of prolonged ailment. As such, he could not file the application for restoration of the appeal in time due to his ailment and infirm health. It is accordingly prayed that the present petition be allowed, and the impugned orders of the courts below be set aside.

3. *Per Contra*, learned counsel for respondent No. 2 vehemently opposes the submissions of learned counsel for the petitioner and submits that there is unexplained delay of more than 18 months in filing the application for restoration of the appeal by the petitioner. Even the application for restoration of the main appeal as well as the application for condonation of delay in filing the said application have not been appended with the present revision petition. All that has been stated is that father of the petitioner was unable to instruct his counsel. The same shall not constitute any cause for condonation of such an inordinate and extraordinary delay of 18 months in filing the restoration application. Accordingly, learned counsel for respondent No. 2 prays for dismissal of the present revision petition.

4. No other argument has been raised by learned counsel for the parties. I have heard learned counsel and carefully gone through the case file. I find no merit in the submissions made on behalf of the petitioner.



5. Brief facts of the case are that father of the petitioner had filed a suit for declaration which was dismissed by the learned trial Court vide judgment and decree dated 19.02.2005 (Annexure P-5). Being aggrieved, the father of the petitioner had filed Civil Appeal No. 89/2005 dated 02.06.2005 (Annexure P-1), titled as 'Madan Mohan Singh vs. Gian Singh Etc.' against the aforesaid judgment and decree dated 19.02.2005 along with an application for condonation delay in filing the said appeal. As father of the petitioner had failed to put in appearance before the learned Lower Appellate Court, the said appeal was dismissed for non-prosecution vide order dated 12.5.2010. Thereafter, father of the petitioner had filed an application for restoration of the said appeal on 07.11.2011. The said application for restoration of the main appeal was accompanied with an application seeking condonation of delay. Vide the impugned order dated 20.07.2015 (Annexure P-2), the said applications have been dismissed.

6. Admittedly, the only reason cited in the application for condonation of delay was that '*the applicant could not inform his counsel about his illness and was unable to attend the Court*'. It is the case of the petitioner that his father could not file the application for restoration within limitation as he was gravely ill; and had subsequently expired on 20.4.2013. Firstly, nothing has been placed on record by the petitioner to remotely indicate any illness of his father. The assertion of the petitioner appears to be doubtful as the Civil Appeal was dismissed on 12.5.2010; restoration application was filed on 7.11.2011; whereas father of the petitioner expired three years thereafter on 20.4.2013.



7. Even otherwise, needless to say the same constitutes no ground for condonation of such an extraordinary and inordinate delay of more than 18 months in filing the application for restoration, which, as per law, is to be filed within 30 days from the date of dismissal order. However, no cogent explanation was given by the petitioner as to why the same could not be filed within the limitation.

8. It is well-settled proposition of law that each day's delay has to be explained in a mathematical manner which has not been done by the petitioner. In the present case, no cogent reason or plausible explanation has been furnished by the petitioner for condonation of such an inordinate and unexplained delay of more than 18 months in filing the restoration application. Moreover, condonation of such an inordinate/extraordinary delay in filing the restoration application would tantamount to declaring the law of limitation obsolete/redundant, without any justification. The explanation furnished by the petitioner shows that the matter has been pursued with utmost casualness. 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. It is my view that grave injustice will be caused to the respondent in case the matter is restored at this belated stage. It has been recently held by the Delhi High Court in case of **Moddus Media Pvt. Ltd. vs. M/s. Scone Exhibition Pvt. Ltd., (Delhi)**, Law Finder Doc Id # 887148, that:

11. The litigant owes a duty to be vigilant of his rights and is also expected to be equally vigilant about the judicial proceedings pending in the court of law against him or initiated at his instance. The litigant cannot be permitted to cast the entire blame on the Advocate. It appears that the blame is being attributed on the Advocate with a view to get



the delay condoned and avoid the decree. After filing the civil suit or written statement, the litigant cannot go off to sleep and wake up from a deep slumber after passing a long time as if the court is storage of the suits filed by such negligent litigants. Putting the entire blame upon the advocate and trying to make it out as if they were totally unaware of the nature or significance of the proceedings is a theory put forth by the appellant/applicant/defendant company, which cannot be accepted and ought not to have been accepted. The appellant is not a simple or rustic illiterate person but a Private Limited Company managed by educated businessmen, who know very well where their interest lies. The litigant is to be vigilant and pursue his case diligently on all the hearings. If the litigant does not appear in the court and leaves the case at the mercy of his counsel without caring as to what different frivolous pleas/defences being taken by his counsel for adjournments is bound to suffer. If the litigant does not turn up to obtain the copies of judgment and orders of the court so as to find out what orders are passed by the court is liable to bear the consequences.”

9. I am in complete agreement with the above view expressed by the Delhi High Court. In the present case, as already noticed above, the reasons given by the petitioner for delay in filing the restoration application, do not constitute sufficient cause.

10. In view of the discussion above, I find no ground is made out to exercise the revisional jurisdiction of this Court.

11. **Dismissed.**

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

24.07.2025
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(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned Yes/No

Whether Reportable Yes/No