



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

**CR-6820-2025
DECIDED ON: 24.09.2025**

SUNIL KUMAR AND ANOTHER

.....PETITIONERS

VERSUS

VED PARKASH

.....RESPONDENT

CORAM: HON'BLE MS. JUSTICE MANDEEP PANNU

Present: Mr. Sumit Sangwan, Advocate
for the petitioners.

MANDEEP PANNU, J (ORAL)

1. This revision petition under Article 227 of the Constitution of India has been filed for setting aside the impugned order dated 18.09.2025 passed by the learned Additional District Judge, Bhiwani, whereby the application dated 02.08.2024 filed by the petitioners for condonation of delay in filing the appeal against judgment and decree dated 08.05.2024 has been dismissed.

2. The brief facts are that the suit filed by the respondent/plaintiff was decreed by the learned trial court vide judgment and decree dated 08.05.2024. The petitioners/defendants preferred an appeal against the said judgment, accompanied by an application seeking condonation of delay. It was pleaded therein that the delay was wrongly calculated as 86 days in the application, whereas in fact the delay was only 53 days, since the statutory period of 30 days for filing the appeal was not excluded. It was further pleaded that the petitioners were unaware of the passing of the impugned

judgment and decree and gained knowledge of the same only a week before filing the appeal. It was thus contended that valuable rights of the petitioners were involved and the delay being neither intentional nor *mala fide*, deserved to be condoned.

3. The learned Additional District Judge, Bhiwani, however, dismissed the application observing that the defendants were well aware of the judgment and decree as the certified copy thereof had been applied on 22.07.2024 and prepared on 24.07.2024. It was held that since execution proceedings had also commenced and warrants of sale had been issued, the plea of want of knowledge was untenable. It was further noticed that the plaintiff had even sent a legal notice dated 09.07.2024 by registered post calling upon the petitioners to comply with the decree, yet the appeal was filed belatedly on 02.08.2024. Holding that the delay had not been satisfactorily explained, the application was dismissed.

4. Having considered the matter carefully, this Court finds that the impugned order of the learned Additional District Judge, Bhiwani cannot be sustained. At the outset, it is well settled that the expression "*sufficient cause*" in Section 5 of the Limitation Act, 1963 is to be interpreted liberally so as to advance substantial justice rather than defeat it on technical grounds. The object of prescribing limitation is not to foreclose adjudication on merits but to ensure diligence in prosecuting remedies. Where the party has acted *bona fide* and no element of negligence or *mala fide* is discernible, courts lean in favour of condoning the delay.

5. In the present case, the petitioners have consistently maintained that they were unaware of the judgment and decree dated 08.05.2024 and came to know of the same only a short while prior to filing the appeal. It is

correct that the certified copy was applied on 22.07.2024 and prepared on 24.07.2024, but the appeal was filed soon thereafter on 02.08.2024. Thus, the actual delay which requires condonation is only 53 days, not 86 days as wrongly mentioned in the application. The explanation given by the petitioners cannot be said to be either fanciful or lacking in *bona fides*.

6. The learned court below has placed undue emphasis on the pendency of execution proceedings and issuance of warrants of sale as a ground to deny condonation. This approach is manifestly erroneous. The object of execution proceedings is to enforce a decree, whereas the right of appeal is a substantive and valuable right conferred by law. The two proceedings are independent and pendency of execution cannot deprive the petitioners of their statutory right to have their appeal heard on merits.

7. Similarly, the observation that a legal notice dated 09.07.2024 had been sent by the plaintiff does not conclusively establish actual service or knowledge of the decree upon the petitioners. The question is not whether some notice was sent, but whether the petitioners acted with reasonable promptitude upon learning of the decree. The timeline here shows that within a fortnight of applying for the certified copy, the appeal along with the application for condonation of delay was filed. This demonstrates diligence rather than negligence.

8. The Hon'ble Supreme Court in "***Dhairya Overseas and others v. Rajeshbhai Gordhanbhai Nanda***", *SLP (Civil) No. 289 of 2022*, decided on 23.04.2024, has reiterated that delay should be condoned in the larger interest of justice where refusal to do so would result in non-adjudication of valuable rights of the parties on merits. The Court emphasised that a

pragmatic and liberal approach must be adopted, particularly at the stage of first appeal, which is a valuable right.

9. Applying these principles, this Court is of the opinion that the learned Additional District Judge, Bhiwani adopted a hyper-technical approach and failed to exercise jurisdiction in a manner consistent with settled law. The delay was adequately explained by the petitioners, and no prejudice would be caused to the respondent if the appeal is heard on merits. On the contrary, denial of condonation would result in irreparable prejudice to the petitioners by shutting them out from appellate adjudication.

10. Accordingly, the present civil revision is allowed. The impugned order dated 18.09.2025 passed by the learned Additional District Judge, Bhiwani, is set aside. The application for condonation of delay stands allowed subject to payment of costs of Rs.5000/- to be paid by the petitioners to the respondent before the Court below. The Lower Appellate Court is directed to register the appeal and proceed to hear and decide the same on merits in accordance with law.

11. All pending miscellaneous application(s), if any, stands disposed of.

24.09.2025

Poonam Negi

**(MANDEEP PANNU)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No