



**RSA-973-1995 (O&M)**

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

**(101)**

**RSA-973-1995 (O&M)**

**Date of decision: - 15.05.2025**

**Paramjeet Singh (now deceased) through LRs**

**....Appellant**

**Versus**

**State of Punjab and another**

**.....Respondents**

**CORAM : HON'BLE MR. JUSTICE VIKAS BAHL**

Present:- Mr. Paramjit Singh Brar, Advocate,  
for the appellant.

Mr. Surya Kumar, AAG, Punjab.

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**VIKAS BAHL, J. (ORAL)**

**CM-7027-C-2024**

1. Present application has been filed under Order 22 Rule 3 CPC read with Section 151 CPC for impleading the legal heirs of Paramjeet Singh/appellant.

2. For the reasons mentioned in the application, which are duly supported by an affidavit, the same is allowed and the persons mentioned as LRs of the appellant in para 2 of the application are ordered to be impleaded as legal representatives of the appellant, subject to all just exceptions.

3. It is made clear that the present order would not be construed as an adjudication with respect to the fact that the persons who have been



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impleaded as legal representatives are entitled to the estate of the appellant, but is only for the purpose of continuation of present case on behalf of the appellant.

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1. Challenge in the present Regular Second Appeal is to the judgment dated 27.10.1994 vide which the 1<sup>st</sup> Appellate Court had dismissed the first appeal filed by the plaintiff/present appellant solely on the ground of limitation.

2. Learned counsel for the appellant has submitted that the suit filed by the plaintiff-Paramjeet Singh for declaration to the effect that the orders passed by defendant No.2 dated 29.05.1989, 14.05.1990 and 01.10.1991 awarding punishment of stoppage of one, one and three annual increments respectively, with cumulative effect were illegal. It is submitted that a further challenge was made to other orders, awarding punishment of stoppage of various increments, without cumulative effect, in the said suit and the said suit vide judgment and decree dated 31.03.1993 was partly allowed. It is argued that to the extent the suit was not allowed, the present appellant/plaintiff had filed an appeal alongwith an application for condonation of delay. It is submitted that the appeal was drafted on 08.07.1993 and was presented on 16.07.1993. It is further submitted that in the application for condonation of delay the reasons for delay were duly explained and it was specifically stated that immediately after the passing of the judgment and decree dated 31.03.1993, the plaintiff had applied for certified copy of the said judgment and decree on



08.04.1993 for the purpose of filing an appeal. It is submitted that the certified copy of the said judgment and decree was supplied on 21.06.1993 and since there were vacations, thus, the appeal could not be immediately filed but was presented on 16.07.1993. It is further submitted that the appeal had been filed within a period of one month from 21.06.1993 and even in case there is some delay in the appeal, the same deserves to be condoned as the plaintiff/appellant was bona-fidely pursuing the case. It is further submitted that substantial rights of the plaintiff are involved in the appeal and it is thus, prayed that the judgment of the 1<sup>st</sup> Appellate Court be set aside and the delay in filing the appeal be condoned and the 1<sup>st</sup> Appellate Court be directed to hear the appeal on merits.

3. Learned counsel for the respondents-State, on the other hand, has submitted that in the present case, the certified copy was prepared by the Registry on 03.05.1993 and the period of limitation started running from the date the certified copy had been prepared i.e. 03.05.1993 and not from the date the same was taken by the plaintiff which is stated to be 21.06.1993. It is submitted that thus taking the date as 03.05.1993, it is apparent that the appeal, which had been prepared on 08.07.1993 and was presented on 16.07.1993, was barred by limitation. It is stated that in such a situation, the judgment passed by the 1<sup>st</sup> Appellate Court is in accordance with law and deserves to be upheld.

4. This Court has heard learned counsel for the parties and has perused the paper-book as well as the record of the trial Court and the 1<sup>st</sup>



Appellate Court.

5. It is not in dispute that the plaintiff had filed a suit for declaration challenging several orders passed by defendant No.2 vide which punishment of stoppage of various increments with cumulative effect and without cumulative effect were passed. It is also not in dispute that the said suit vide judgment and decree dated 31.03.1993 was partly decreed and the following relief was granted: -

*“13. In view of my findings on issue no.1, suit of the plaintiff is decreed partly for a declaration to the effect that the orders dt. 29.5.1989, 14.5.1990 are illegal, null and void and are not binding upon the plaintiff. It is further ordered that the plaintiff shall be entitled to all the service benefits as if these orders were not passed against him. Rest of the claim of the plaintiff is dismissed. Decree sheet be drawn up accordingly and file be consigned to the record room.*

*Announced in open court.”*

6. The plaintiff-appellant had filed an appeal against the said judgment and decree to the extent of the reliefs which had not been granted to the plaintiff/appellant. No cross-appeal was filed by the State against the said judgment and decree dated 31.03.1993. It is apparent that substantial rights of the appellant were involved in the first appeal. The 1<sup>st</sup> Appellate Court by taking a hyper technical view had not condoned the delay, although sufficient reasons were mentioned in the application for condonation of delay. It is not in dispute that the plaintiff/appellant had applied for certified copy of the judgment and decree dated 31.03.1993 on 08.04.1993 and it is his case that he wanted to challenge the order of the



trial Court and it is for the said purpose, he had applied for the certified copy of the same by submitting urgent fees. It is further the case of the plaintiff/appellant that the certified copy of the said judgment and decree was supplied to him on 21.06.1993, which fact could not be disputed on behalf of the respondents and that the appeal was presented on 16.07.1993 and was ordered to be put up before the learned District Judge on 24.07.1993. The fact that the case was presented on 16.07.1993 and was ordered to be put up on 24.07.1993 is apparent from the copy of the endorsement on the grounds of appeal. Thus, from 21.06.1993, when the copy was supplied, the appeal was filed within a period of 30 days. It was the added case of the plaintiff/appellant that when the copy was supplied on 21.06.1993, there were summer vacations.

7. Even in case the argument raised by learned State counsel to the effect that the copy was prepared on 03.05.1993 and thus, the limitation started running from the said date and not from the date of supply of certified copy, is accepted being weighty, then also, it is apparent that the delay in filing the appeal would be 51 days approximately and the said delay cannot be stated to be so substantial so as to oust the present appellant from being heard on merits, moreso, when substantial rights of the appellant are involved in the first appeal. The explanation given in the application for condonation of delay filed alongwith the appeal was sufficient to condone the delay in filing the said appeal.

8. It is a matter of settled law that every endeavour should be



made by the Courts to decide the case on merits instead of technicalities. In the said regard, reference can be made to the judgment of the Honb'le Supreme Court in case titled as "Collector, Land Acquisition, Anantnag and another Vs. Mst. Katiji and others reported as (1987) 2 Supreme Court Cases 107, the relevant portion of which is as under: -

*“xxx xxx xxx And such a liberal approach is adopted on principle as it is realized that:*

- 1. Ordinarily a litigant does not stand to benefit by lodging an appeal late.*
- 2. Refusing to condone delay can result in a meritorious matter being thrown out at the very threshold and cause of justice being defeated. As against this when delay is condoned the highest that can happen is that a cause would be decided on merits after hearing the parties.*
- 3. "Every day's delay must be explained" does not mean that a pedantic approach should be made. Why not every hour's delay, every second's delay? The doctrine must be applied in a rational common sense pragmatic manner.*
- 4. When substantial justice and technical considerations are pitted against each other, cause of substantial justice deserves to be preferred for the other side cannot claim to have vested right in injustice being done because of a non-deliberate delay.*
- 5. There is no presumption that delay is occasioned deliberately, or on account of culpable negligence, or on account of mala fides. A litigant does not stand to benefit by resorting to delay. In fact he runs a serious risk.*
- 6. It must be grasped that judiciary is respected not on account of its power to legalize injustice on technical grounds but because it is capable of removing injustice and is expected to do so.*

*Making a justice-oriented approach from this perspective, there was sufficient cause for condoning the delay in the institution of*



*the appeal.”*

9. The principles stated in the above-said judgment were reiterated and reaffirmed in the judgment of the Hon'ble Supreme Court in case titled as “**Dhiraj Singh (D) through legal representatives & others Vs. State of Haryana**”, (2014) 14 SCC 127.

10. It would be relevant to note that the present Regular Second Appeal has been filed under Section 41 of the Punjab Courts Act, 1918 and not under Section 100 of CPC and that in paragraph 27 of the judgment of the Constitutional Bench (Five Judges Bench) of the Hon'ble Supreme Court in the case of “**Pankajakshi (dead) through legal representatives and others v. Chandrika and others and other connected matters**, reported as (2016) 6 SCC 157, it was observed that since section 97(1) of the Code of Civil Procedure (Amendment) Act, 1976, has no application to Section 41 of the Punjab Courts Act, it would necessarily continue as a law in force. Section 41 of the Punjab Courts Act provides that an appeal would lie to the High Court from every decree passed in appeal by any Court subordinate to the High Court on any of the grounds mentioned therein and one such ground i.e., ground No.(a) is when the decision is contrary to law or to some custom or usage having the force of law. In the present case, the judgment of the 1<sup>st</sup> Appellate Court is contrary to the law laid down by the Hon'ble Supreme Court in the above-said judgments and thus, falls within the parameters of Section 41 of the 1918 Act for interference by this Court.

11. Keeping in view the above-said facts and circumstances and

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also in view of the law laid down in the above-said judgment, the present appeal is allowed and the judgment of the 1<sup>st</sup> Appellate Court dated 27.10.1994 is set aside and the application for condonation of delay is allowed and the delay in filing the first appeal is condoned and the 1<sup>st</sup> Appellate Court is directed to decide the appeal afresh on merits, as expeditiously as possible. The same however would be subject to the present appellant/LRs of the appellant depositing an amount of Rs.10,000/- as costs before the 1<sup>st</sup> Appellate Court within a period of one month from today which would be released to the respondents-State and on doing the same, the 1<sup>st</sup> Appellate Court would proceed with the matter and decide the case on merits, after hearing both the parties concerned.

**May 15, 2025**  
*naresh.k*

**( VIKAS BAHL )**  
**JUDGE**

Whether reasoned/speaking?  
Whether reportable?

Yes/No  
Yes/No