



**CR-5564-2025 (O&M)**

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

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**CR-5564-2025 (O&M)  
Decided on :- 25.08.2025**

Ishpal Singh

...Petitioner

VERSUS

Madan Mohan (since deceased)  
through LRs and Others

...Respondents

**CORAM : HON'BLE MS. JUSTICE MANDEEP PANNU**

Present: Mr. Vaibhav Sehgal, Advocate for the petitioner.

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**MANDEEP PANNU J.**

1. The present revision petition has been directed against the order dated 29.05.2025 passed by the learned First Appellate Court in CM No. 774 of 10.11.2023, later converted into Civil Appeal No. 635 of 2025, whereby the application filed by respondent No. 1/defendant No.1 under Section 5 of the Limitation Act, 1963 was allowed and the appeal was entertained.
2. The brief facts leading to the present petition are that the judgment and decree were passed on 09.12.2022 by the Court of Civil Judge (Junior Division), Ludhiana, whereby the suit of the petitioner/plaintiff was dismissed. In the memo of parties and in the decree sheet, the trial Court omitted to mention the legal representatives of defendants No. 2 to 4. Consequently, the legal representative of defendant No. 2, namely Pardeep Sharma, filed an application for correction under Section 152 CPC on 31.01.2023, which was allowed on 17.07.2023.
3. The petitioner/plaintiff thereafter filed an execution petition on 18.04.2024. Respondent No.1/defendant No.1, through his legal representatives, filed an appeal against the judgment and decree dated 09.12.2022 on 10.11.2023. Thus, there was a delay of around 305 days in filing the appeal. However, in the application

under Section 5 of the Limitation Act, the respondents counted the delay only from 17.07.2023, i.e. the date when the correction application was allowed, and represented the delay to be 63 days.

4. Learned counsel for the petitioner/plaintiff contended that the learned appellate Court committed a grave error in calculating the delay as 63 days instead of 305 days. The decree which was sought to be challenged was dated 09.12.2022, and the correction order dated 17.07.2023 only pertained to inserting the names of the legal representatives of defendants No. 2 to 4. That correction did not in any way hamper or bar respondent No. 1 from filing the appeal against the decree dated 09.12.2022. Therefore, the limitation period should have been reckoned from 09.12.2022.

5. It was further argued that respondent No.1 misled the Court by depicting the delay as only 63 days, whereas in fact it was 305 days. The petitioner thus alleged fraud and contended that the application for condonation ought to have been dismissed. In support of his contention, learned counsel for the petitioner/plaintiff placed reliance upon a judgment of Hon'ble Supreme Court in *State of Madhya Pradesh Vs. Ramkumar Choudhary, [202591] Indian Civil Cases 753 (S.C)*.

6. On the other hand, learned counsel for the respondent No.1/defendant No.1 submitted that the delay was occasioned due to illness of appellant No. 1, who was pursuing the litigation. It was pleaded in the application that in the first week of September 2023, appellant No.1 fell ill with viral fever and thereafter suffered from weakness and could not recover sufficiently to attend to his affairs till the end of October 2023. Thereafter, the appeal was promptly filed on 10.11.2023. It was submitted that liberal approach should be taken in the interest of justice.

7. I have considered the rival contentions and perused the record carefully.

8. The first and foremost issue that arises is whether the limitation period for filing the appeal was to be reckoned from the date of the original judgment and

decree, i.e. 09.12.2022, or from the date of correction order dated 17.07.2023? This Court is of the considered view that the correction under Section 152 CPC merely inserted the names of the legal representatives of defendants Nos. 2 to 4 and did not alter the operative decree. Respondent No.1/defendant No.1 was duly named in the judgment and decree dated 09.12.2022 and could have filed the appeal against that decree. Therefore, the limitation must be counted from 09.12.2022. The appeal filed on 10.11.2023 was, thus, delayed by 305 days.

9. The next question is whether sufficient cause was made out for condoning the said delay? It is true that no documentary medical evidence was produced to support the plea of illness. However, the fact remains that in such matters, the Court has to adopt a liberal approach. The Hon'ble Supreme Court in *Collector, Land Acquisition, Anantnag v. Mst. Katiji, (1987) 2 SCC 107*, held that substantial justice should prevail over technical considerations and delay should be condoned where no mala fides are established. In *N. Balakrishnan v. M. Krishnamurthy, (1998) 7 SCC 123*, the Court further held that length of delay is not decisive; what matters is the sufficiency of the cause.

10. In the present case, the application itself disclosed that the respondents counted the delay from 17.07.2023, the date of correction, and not from 09.12.2022, the date of decree. It cannot, therefore, be said that fraud was played on the Court, as the respondents clearly disclosed their basis. However, the fact remains that there was a delay of 305 days. The respondents explained the delay on the ground of illness and inability to attend to litigation between September and October 2023. Though no medical documents were produced, in the absence of mala fides, this Court is inclined to accept that there was sufficient cause for delay.

11. Reference may also be made to *State of Nagaland v. Lipok Ao, (2005) 3 SCC 752*, wherein the Supreme Court reiterated that liberal approach should be adopted when delay is not due to negligence or inaction. Similarly, in *Improvement*

*Trust, Ludhiana v. Ujagar Singh, (2010) 6 SCC 786*, it was held that when technical delay obstructs substantial justice, delay may be condoned.

12. So far as case law relied upon by the learned counsel for the petitioner/plaintiff is concerned, in the case of *State of Madhya Pradesh v. Ramkumar Chaudhary (supra)*, wherein the Hon'ble Supreme Court held that where delay in filing an appeal is attributable to gross negligence, deliberate inaction, or lack of bona fides, the Court should not condone such delay under Section 5 of the Limitation Act, in that case, the State had failed to offer any plausible explanation for its prolonged inaction and sought condonation of delay as a matter of right. The Court categorically observed that liberal interpretation cannot extend to situations where the conduct of the party shows indifference or mala fides.

13. The facts of the present case are entirely distinguishable. Here, respondent No.1/defendant No.1 did not sit idle in utter negligence or mala fide indifference. The appeal was filed after delay primarily because the appellant fell ill during September–October 2023, which explanation, though not supported by documentary medical evidence, was consistently pleaded. More importantly, the respondent No.1/defendant No.1 disclosed in the application that he was computing limitation from the date of the correction order. Thus, there was no suppression of fact or fraud. Unlike in *Ramkumar Chaudhary's case (supra)*, the delay in the present case cannot be attributed to deliberate inaction or gross negligence. At the highest, there was a mistaken calculation of limitation, which by itself is not sufficient to deny condonation when sufficient cause has otherwise been shown. Therefore, while the case of *Ramkumar Chaudhary (supra)* lays down that negligence or lack of bona fides cannot be condoned, that principle has no application to the present facts, where no mala fides are established and sufficient cause has been explained.

**Conclusion**

14. For the reasons recorded above, this Court does not find any ground to interfere in the impugned order dated 29.05.2025 passed by the learned First Appellate Court. The revision petition is accordingly **dismissed**. However, it is clarified that the delay of 305 days has been condoned subject to payment of cost of Rs.10,000/- to be paid by respondent No.1/defendant No.1 to the opposite party in the trial Court, in order to compensate the opposite party for any hardship caused to the party.

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

August 25, 2025  
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**(MANDEEP PANNU)**  
**JUDGE**

Whether speaking/non-speaking : Speaking  
Whether reportable : Yes/No