



In the High Court of Punjab and Haryana, at Chandigarh

Second Appeal Order No. 83 of 2018 (O&M)

Date of Decision: 21.02.2025

Banarsi Dass

... Appellant(s)

Versus

Santosh alias Toshi and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Vikram Singh Narwal, Advocate
for the appellant(s).

Mr. Pankaj Bali, Advocate
for respondent No.1, 2 and 6.

Anil Kshetarpal, J.

1. The First Appellate Court has refused to condone the delay of 41 days in filing the first appeal on the ground that the appellant has failed to furnish fresh explanation for the delay.
2. In the opinion of this Court, the First Appellate Court has taken a myopic view of the matter. The first appeal is a statutory right available to the party that has lost before the Trial Court to get the matter re-examined.
3. In this case, the delay was not colossal. It was asserted by the appellant that the delay was not intentional and was beyond his control. The First Appellate Court could have directed the appellant to file a better affidavit. However, the First Appellate Court dismissed the application to condone the delay which ultimately resulted in failure to examine the case on merits. The First Appellate Court was required to take a holistic view of

the matter.

4. Keeping in view the aforesaid facts, the present appeal is allowed and the impugned order is set aside. The first appeal filed by the appellant before the First Appellate Court is ordered to be restored to its original number. The parties, through their learned counsel, are directed to appear before the First Appellate Court on 03.03.2025.

(Anil Kshetarpal)
Judge

February 21, 2025

“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No