



CR-6601-2025 (O&M)

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

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**CR-6601-2025 (O&M)
Decided on :- 22.09.2025**

Yash Pal Singh

...Petitioner

VERSUS

Kehar Singh and Others

...Respondents

CORAM : HON'BLE MS. JUSTICE MANDEEP PANNU

Present: Mr. Sanjiv Gupta, Advocate for the petitioner.

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MANDEEP PANNU J.

1. Present Revision Petition under Article 227 of the Constitution of India has been filed by the petitioner, Mr. Yashpal Singh, impugning the order dated 04.09.2025 whereby the application for condonation of delay was dismissed and, consequentially, the first appeal filed by the petitioner on 05.08.2025 was rejected as time-barred.

2. The factual matrix, as urged before this Court, is that the suit instituted by the respondent/plaintiff was decreed by judgment and decree dated 19.11.2024 passed by the learned Civil Judge (Junior Division), Bilaspur and the counter-claim of the petitioner/defendant was dismissed. The petitioner is a man of advanced age i.e. 72 years and suffers from multiple ailments. On account of his infirmity he was unable to contact his previous counsel and, consequently, remained unaware of the judgment and decree. He states that the first occasion on which he became cognisant of the final order was when he received summons in the Execution Petition on 22.07.2025. Thereupon he took steps and filed the first appeal on 05.08.2025, though the appeal was delayed by 235 days. The learned



lower appellate Court, after hearing the parties, refused to condone the delay on the ground that the explanation was not satisfactory and observed that there were seven co-defendants who were equally affected and yet did not take steps. The lower Court further relied upon the principle in the ratio of the decision in the case of *State of Haryana Urban Development Authority and another v. Gopi Chand (2019) 2 ACJ 256 (SC)* cited by the respondent, which holds that mere negligence of counsel does not ordinarily constitute sufficient cause under Section 5 of the Limitation Act.

3. Learned counsel for the petitioner, however, urged before this Court that the delay was neither intentional nor due to negligence in the sense contemplated in the authorities. Rather it arose out of the petitioner's genuine incapacity to act because of old age and ailments, and that he acted promptly once he received the execution summons. It was further urged that the right of appeal is a substantive right and, in the interests of justice and in order to enable the petitioner to ventilate his defence and contest the decree, the delay ought to be condoned subject to such terms as this Court may deem fit, including imposition of costs to meet any prejudice caused to the respondents.

4. I have considered the submissions and perused the record. The Court is aware that applications for condonation of delay are to be decided on pragmatic and equitable grounds. The settled approach under Section 5 of the Limitation Act is to weigh the length of delay, the explanation offered, the bona fides of the applicant, the absence or presence of mala fides, and whether the objecting party would suffer prejudice which cannot be compensated by costs. Applying these guiding principles to the present case, I find that the petitioner has given a plausible and credible explanation for the delay. His advanced age and the medical



disabilities he avers are circumstances which materially distinguish the present case from those where delay has been sought to be excused solely on account of the inadvertence or neglect of an advocate. The decision relied upon by the respondents in *Gopi Chand's case (supra)* is distinguishable on facts. There the delay was attributable to counsel's omission where there was no satisfactory explanation and the appellant could have taken steps, here the petitioner explains that due to infirmity he could not manage his legal affairs or contact his previous lawyer and only became aware of the decree upon receipt of execution summons.

5. Further, though it is true other co-defendants were similarly affected, that fact alone does not render the petitioner's explanation inherently improbable, individual circumstances and capacity to act differ and must be assessed on their own merits. The presence of co-defendants who did not act does not automatically establish deliberate laches on the part of this petitioner. The delay of 235 days, though sizeable, is not inordinate in the circumstances narrated and is satisfactorily explained by the petitioner's physical incapacity and late knowledge of the decree, and there is no material on record to show mala fide motive or deliberate suppression. In the balance of convenience and in the interest of doing substantial justice, the petitioner's right to seek appellate adjudication ought not to be extinguished by a rigid application of limitation where a plausible cause exists, the ends of justice favour trial of real controversies on merit rather than their being foreclosed on technical grounds. That said, the Court is conscious that ensuring fairness to the respondent is also important; to compensate for the delay and the inconvenience caused, and as a condition for condonation, the petitioner shall pay costs of Rs.10,000 (Rupees Ten Thousand only) to the respondents.



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6. Accordingly, the impugned order dated 04.09.2025 is set aside to the extent it dismissed the application for condonation of delay, the delay of 235 days in presenting the appeal is hereby condoned, and the appeal filed by the petitioner on 05.08.2025 is ordered to be restored and admitted for hearing on merits. The petitioner shall deposit the sum of Rs.10,000 as costs with the Registry of this Court within four weeks from the date of passing of this order for being paid to the respondents, in default of such deposit, the benefit of this order shall stand forfeited and the impugned order of the lower appellate Court shall be treated as restored.

7. The present revision petition is allowed in the above-said terms.

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

September 22, 2025
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(MANDEEP PANNU)
JUDGE

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