



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(243)

CR No.4835 of 2019 (O&M)
Date of Decision: 08.04.2025

Vijay Singh

...Petitioner

Versus

Poonam @ Santosh and another

...Respondents

CORAM : HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Mr. Ajay Jain, Advocate
for the petitioner.

Mr. Akash Vashisth, Advocate
for respondent No.1.

VIKRAM AGGARWAL, J (ORAL)

CM-7900-CII of 2022

The application is allowed as prayed for subject to all just exceptions. Documents i.e., reply of respondent No.1 in shape of affidavit dated 02.07.2022 along with Annexure R-1/1 and R-1/2 are taken on record.

CR No. 4835 of 2019 (O&M)

The present revision petition is directed against the order dated 12.03.2019 (Annexure P-3) passed by the Court of learned Additional District Judge, Rewari vide which the application for leave to file appeal moved by respondent No.1 (Poonam @ Santosh) was allowed.

2. A suit for possession by way of specific performance of agreement to sell dated 29.08.2008 (Annexure P-1) was filed by the

petitioner (Vijay Singh) against respondent No.2 (Virender Singh). The said suit was decreed vide judgment and decree dated 22.07.2011 (Annexure R-1/1).

3. During the pendency of the suit, an application had been moved by respondent No.1 for being impleaded as a party. The said application came to be dismissed vide order dated 21.03.2011 (Annexure P-2) and the said order is stated to have become final. After the decision of the suit on 22.07.2011, an appeal was preferred by respondent No.1 along with an application for condonation of delay as also an application for grant of leave to file appeal. The application for grant of leave to file appeal was allowed by way of the impugned order dated 12.03.2019, leading to the filing of the instant revision petition.

4. I have heard learned counsel for the parties.

5. Learned counsel for the petitioner has strenuously urged that the order vide which leave to file appeal was granted to respondent No.1 is illegal and arbitrary and is not sustainable. He submits that the suit was decreed vide judgment and decree dated 22.07.2011 whereas the appeal was filed on 12.03.2019. He submits that seemingly, the application for condonation of delay was allowed without giving notice to the present petitioner and even leave to appeal was granted. He further submits that the order is totally illegal and arbitrary and deserves to be set aside.

6. *Per contra*, learned counsel representing respondent No.1 submits that there is no illegality in the order as respondent No.1, being an affected party, is duly competent to institute an appeal against the judgment and decree dated 22.07.2011.

7. I have considered the submissions made by learned counsel for the parties.

8. Admittedly, respondent No.1 was not impleaded as a party in the suit. She made an attempt to be impleaded by filing an application which was dismissed vide order dated 21.03.2011 (Annexure P-2). This order is stated to have become final since it was not challenged any further. In any case, after the suit having been decided on 22.07.2011, respondent No.1 preferred an appeal which was accompanied by an application for grant to leave file appeal and an application for condonation of delay. The said appeal along with application was filed on 12.03.2019 i.e., almost seven (07) years after the suit had been decided. The Court of learned Additional District Judge, Rewari, did not deal with the application for condonation of delay at all and granted leave to file appeal and issued notice of the appeal to the present petitioner.

9. In the considered opinion of this Court, the same could not have been done. Once there was a delay and that too a substantial delay in filing the appeal and the appeal was accompanied by an application for the grant of leave to file appeal as also an application for condonation of delay, the delay could not have been condoned without notice to the present petitioner. On that ground alone, the impugned order is not sustainable.

In view of the above, the order under challenge is set aside and the matter is remitted to the Court of learned Additional District Judge, Rewari to deal with the appeal along with the applications in accordance with law and take a fresh decision. Keeping in view the fact that the suit was decreed as far back on 22.07.2011, the decision on the applications be taken within a period of three months from today. The respondent No.1 may put in

appearance before the Court concerned on 19.05.2025, the date already stated to be fixed in the matter.

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

(VIKRAM AGGARWAL)
JUDGE

April 08, 2025

Rekha/Prince Chawla

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No