



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

**CR-1072-2025 (O&M)
Decided on : 22.04.2025**

Nimrata Shergill and another

..... Petitioners

Versus

Shop Owners Welfare Association

..... Respondent

CORAM : HON'BLE MR. JUSTICE VIKRAM AGGARWAL

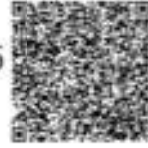
Present : Mr. Rajesh Garg, Senior Advocate with
Mr. Varinder Arora, Advocate
for the petitioners.

Mr. Raghav Sharma, Advocate
for the respondent.

VIKRAM AGGARWAL, J (ORAL)

The present revision petition, preferred under Article 227 of the Constitution of India, assails the order dated 30.01.2025, passed by the Court of learned Additional District Judge, Chandigarh vide which the application preferred under Section 14 of the Limitation Act, 1963 (hereinafter referred to as 'the Limitation Act') for exclusion of 147 days in filing the first appeal was dismissed.

2. A summary suit under Order 37 of the Code of Civil Procedure, 1908 (for short 'CPC') was filed by the present petitioners seeking recovery of Rs.49,66,510/- (Rs.10,11,900/- towards petitioner-plaintiff No.1 and Rs.39,54,610/- towards petitioner-plaintiff No.2) alongwith interest @ 12% per annum. An application under Order 7 Rule 11 CPC for rejection of plaint came to



be filed by the respondent-defendant which was allowed vide order dated 09.03.2022. Aggrieved by the same, CR No.1218 of 2022 was preferred by the petitioners which was dismissed vide order dated 19.07.2022 (Annexure P-1). The petitioners then preferred an appeal against the order dated 09.03.2022 before the Court of learned Additional District Judge, Chandigarh. The same was accompanied by an application under Section 14 of the Limitation Act (Annexure P-2). The said application was opposed by way of a reply (Annexure P-3). Vide impugned order dated 30.01.2025, the said application was dismissed leading to the filing of the present revision petition.

3. I have heard learned counsel for the parties.

4. Sh. Rajesh Garg, learned Senior Counsel, who has appeared in person, has submitted that the impugned order is not sustainable. Referring to the order passed by a Coordinate Bench of this Court in CR No.1218 of 2022, it has been submitted that it was clearly observed by the Coordinate Bench that the impugned order therein amounted to a decree and there is a remedy of appeal under Section 96 CPC. The Coordinate Bench observed that in view of the said position, the Court would not interfere under Article 227 of the Constitution of India. Learned Senior Counsel submits that under the circumstances, the first appeal was filed along with an application under Section 14 of the Limitation Act which has erroneously been rejected. Learned Senior Counsel has referred to the judgments of the Supreme Court of India in the cases of ***Laxmi Srinivasa R and P Boiled Rice Mill versus State of Andhra Pradesh and Another 2022 SCC OnLine SC 1790*** and ***Kalpraj Dharamshi and another versus Kotak Investment Advisors Limited (2021) 10 Supreme Court Cases 401*** (Annexure P-4 and P-5) and has submitted that the impugned order deserves to be set aside and the



application under Section 14 of the Limitation Act deserves to be allowed.

5. On the other hand, learned counsel for the respondent has opposed the prayer made by the learned Senior Counsel for the petitioners. It has been submitted that the revision petition preferred earlier had been dismissed and, therefore, no relief under Section 14 of the Limitation Act could have been granted. Learned counsel submits that the application under Section 14 of the Limitation Act was, therefore, rightly dismissed. As regards the judgments in the cases *Laxmi Srinivasa R and P Boiled Rice Mill versus State of Andhra Pradesh and Another* and *Kalpraj Dharamshi and another versus Kotak Investment Advisors Limited* (supra), learned counsel submits that the said judgments are not applicable.

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

7. The only question to be decided is as to whether the application under Section 14 of the Limitation Act deserves to be allowed or not. No doubt, initially a revision petition was preferred against the order of rejection of plaint. The said revision petition was dismissed vide order dated 19.07.2022;

“The order dated 09.03.2022 amounts to a decree as contemplated under Section 2 (2) of the Code and the aggrieved party has a remedy of appeal under Section 96 of the Code. That being the position, this Court would loathe to interfere in the matter in exercise of its jurisdiction under Article 227 of the Constitution of India.

As a sequel to the above, no case for interference by this Court is made out. The revision petition is thus dismissed.”

8. No doubt, the revision petition could have been withdrawn.



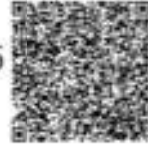
However, even while dismissing the revision petition, the observation was that the order is appealable. The petitioners, therefore, rightly filed the appeal along with an application under Section 14 of the Limitation Act for condonation of delay of 147 days.

9(i). The Limitation Act, 1963 was enacted with a certain object. Till 1859, there was no definite law of limitation and regulations were passed from time to time for fixing the period of limitation for institution of action. For the first time in the year 1859, a law on the subject of limitation was passed by Act XIV of 1859 which came into operation in 1862. The Act of 1859 was followed by the Act XIX of 1871 followed by Act XV of 1877. Finally, limitation Act, 1908 was passed which continued in operation for a long period. Ultimately, the Law Commission made various recommendations in its 3rd report dated 27.07.1956. A limitation Bill was, therefore, introduced in the Lok Sabha on 23.12.1960 but it lapsed on account of dissolution of the Lok Sabha and accordingly, it was again introduced in the Parliament in 1962. It was then that Act No.36 of 1963 i.e. the present Act came into force w.e.f. 01.01.1964. The Act defines period of limitation under Section 2 (j) of the Limitation Act, 1963 (for short 'the Act, 1963');

“period of limitation” means the period of limitation prescribed for any suit, appeal or application by the Schedule, and “prescribed period” means the period of limitation computed in accordance with the provisions of this Act.”

9(ii). Section 5 of the Act, 1963 provides for extension of the prescribed period in certain cases and lays down as under:-

5. Extension of prescribed period in certain cases.—Any appeal or



any application, other than an application under any of the provisions of Order XXI of the Code of Civil Procedure, 1908 (5 of 1908), may be admitted after the prescribed period if the appellant or the applicant satisfies the court that he had sufficient cause for not preferring the appeal or making the application within such period.

Explanation.—The fact that the appellant or the applicant was misled by any order, practice or judgment of the High Court in ascertaining or computing the prescribed period may be sufficient cause within the meaning of this section.

9(iii). Section 14 of the Limitation Act provides for exclusion of time of proceeding *bona fide* in court without jurisdiction;

14. Exclusion of time of proceeding bona fide in court without jurisdiction.—(1) In computing the period of limitation for any suit the time during which the plaintiff has been prosecuting with due diligence another civil proceeding, whether in a court of first instance or of appeal or revision, against the defendant shall be excluded, where the proceeding relates to the same matter in issue and is prosecuted in good faith in a court which, from defect of jurisdiction or other cause of a like nature, is unable to entertain it.

(2) In computing the period of limitation for any application, the time during which the applicant has been prosecuting with due diligence another civil proceeding, whether in a court of first instance or of appeal or revision, against the same party for the same relief shall be excluded, where such proceeding is prosecuted in good faith in a court which, from defect of jurisdiction or other cause of a like nature, is unable to entertain it.

(3) Notwithstanding anything contained in rule 2 of Order XXIII of the Code of Civil Procedure, 1908 (5 of 1908), the provisions of sub-section (1) shall apply in relation to a fresh suit instituted on



permission granted by the court under rule 1 of that Order, where such permission is granted on the ground that the first suit must fail by reason of a defect in the jurisdiction of the court or other cause of a like nature.

9(iv). The periods of limitation are provided in the schedule attached to the Act. The legislature was, therefore, conscious of the fact that certain time periods and limits need to be fixed for initiation of action. Accordingly, different period of limitations were provided for different actions.

9(v). Then arose the question as to whether the Courts should be strict or they should be liberal in condoning the delay in initiating different kinds of action.

9(vi). The basic law is that the Courts should be liberal in condoning the delay but upto a certain extent. However, the concept of 'liberal approach, justice oriented approach, substantial justice' cannot be employed to jettison the substantial law of limitation. It was so held by the Supreme Court of India in the case of ***Lanka Venkateswarlu v. State of Andhra Pradesh, AIR 2011 SC 1199.*** Further, though, vide different judgments, the State has been given more leverage as regards delay that occurred in initiating action and condonation thereof, the Act does not make any distinction between the State and the citizens. It was held by the Supreme Court of India in the case of ***Indian Oil Corporation Ltd. v. Subrata Borah Chowlek, (2010) 12 SCALE 209 : 2010 (262) ELT 3*** that adopting a strict standard of proof in the case of Government which is dependent on the actions of its officials, who often do not have any personal interest in its transaction may lead to grave miscarriage of justice and, therefore, certain amount of latitude is permissible in such cases.

9(vii). As per Section 5 of the Limitation Act, if sufficient cause is shown for



not preferring an appeal or an application (other than an application under the provisions of Order XXI CPC) within the prescribed period, the same may be admitted after the prescribed period as well. In the case of ***Esha Bhattacharjee versus Managing Committee of Raghunathpur Nafar Academy and others 2013 (4) RCR (Civil) 785***, the Hon'ble Apex Court culled out the principles with regard to condonation of delay. It was laid down by the Hon'ble Apex Court as under:-

“From the aforesaid authorities the principles that can broadly be culled out are:

(i) There should be a liberal, pragmatic, justice-oriented, non-pedantic approach while dealing with an application for condonation of delay, for the courts are not supposed to legalise injustice but are obliged to remove injustice.

(ii) The terms "sufficient cause" should be understood in their proper spirit, philosophy and purpose regard being had to the fact that these terms are basically elastic and are to be applied in proper perspective to the obtaining fact-situation.

(iii) Substantial justice being paramount and pivotal the technical considerations should not be given undue and uncalled for emphasis.

(iv) No presumption can be attached to deliberate causation of delay but, gross negligence on the part of the counsel or litigant is to be taken note of.

(v) Lack of bona fides imputable to a party seeking condonation of delay is a significant and relevant fact.

(vi) It is to be kept in mind that adherence to strict proof should not affect public justice and cause public mischief because the courts are required to be vigilant so that in the



ultimate eventuate there is no real failure of justice.

(vii) The concept of liberal approach has to encapsule the conception of reasonableness and it cannot be allowed a totally unfettered free play.

(viii) There is a distinction between inordinate delay and a delay of short duration or few days, for to the former doctrine of prejudice is attracted whereas to the latter it may not be attracted. That apart, the first one warrants strict approach whereas the second calls for a liberal delineation.

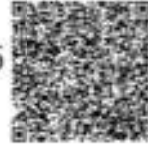
(ix) The conduct, behaviour and attitude of a party relating to its inaction or negligence are relevant factors to be taken into consideration. It is so as the fundamental principle is that the courts are required to weigh the scale of balance of justice in respect of both parties and the said principle cannot be given a total go by in the name of liberal approach.

(x) If the explanation offered is concocted or the grounds urged in the application are fanciful, the courts should be vigilant not to expose the other side unnecessarily to face such a litigation.

(xi) It is to be borne in mind that no one gets away with fraud, misrepresentation or interpolation by taking recourse to the technicalities of law of limitation.

(xii) The entire gamut of facts are to be carefully scrutinised and the approach should be based on the paradigm of judicial discretion which is founded on objective reasoning and not on individual perception.

(xiii) The State or a public body or an entity representing a



collective cause should be given some acceptable latitude.”

9(viii). Still further, in the case of ***Basawaraj and another versus Special Land Acquisition Officer 2013 (14) SCC 81***, the Hon’ble Supreme Court of India was dealing with a judgment of the High Court of Karnataka wherein the appeals filed by the appellants had been dismissed on the ground of limitation. In this case also, the Hon’ble Apex Court examined as to what would amount to a sufficient cause as defined under Section 5 of the Limitation Act. It was held that the expression “sufficient cause” should be given a liberal interpretation to ensure that substantial justice is done but only so long as negligence, inaction or lack of bonafidies cannot be imputed to the party concerned. It was held that whether or not sufficient cause had been shown, could be decided on the facts of a particular case and no straitjacket formula was possible. In this case, there was a delay of 5 ½ years in filing the appeal and the High Court of Karnataka had dismissed the appeals on the ground of limitation. The Hon’ble Apex Court, after examining the facts of the case and law on the subject, declined to interfere in the decision of the Karnataka High Court and, therefore, rejected the appeals. It was held by the Hon’ble Apex Court as under:-

“9. Sufficient cause is the cause for which defendant could not be blamed for his absence. The meaning of the word "sufficient" is "adequate" or "enough", inasmuch as may be necessary to answer the purpose intended. Therefore, the word "sufficient" embraces no more than that which provides a platitude, which when the act done suffices to accomplish the purpose intended in the facts and circumstances existing in a case, duly examined from the view point of a reasonable standard of a cautious man. In this context, "sufficient cause" means that the party should not have acted in a negligent manner or there was a want of bona fide on its part in



view of the facts and circumstances of a case or it cannot be alleged that the party has "not acted diligently" or "remained inactive". However, the facts and circumstances of each case must afford sufficient ground to enable the Court concerned to exercise discretion for the reason that whenever the Court exercises discretion, it has to be exercised judiciously. The applicant must satisfy the Court that he was prevented by any "sufficient cause" from prosecuting his case, and unless a satisfactory explanation is furnished, the Court should not allow the application for condonation of delay. The court has to examine whether the mistake is bona fide or was merely a device to cover an ulterior purpose.(See: Manindra Land and Building Corporation Ltd. v. Bhootnath Banerjee & Ors., AIR 1964 Supreme Court 1336 ; Lala Matadin v. A. Narayanan, AIR 1970 Supreme Court 1953 ; Parimal v. Veena @ Bharti, 2011(2) RCR (Civil) 155 : 2011(1) Recent Apex Judgments (R.A.J.) 611 and Maniben Devraj Shah v. Municipal Corporation of Brihan Mumbai, AIR 2012 Supreme Court 1629.

10. In Arjun Singh v. Mohindra Kumar, AIR 1964 Supreme Court 993 this Court explained the difference between a "good cause" and a "sufficient cause" and observed that every "sufficient cause" is a good cause and vice versa. However, if any difference exists it can only be that the requirement of good cause is complied with on a lesser degree of proof that of "sufficient cause".

11. The expression "sufficient cause" should be given a liberal interpretation to ensure that substantial justice is done, but only so long as negligence, inaction or lack of bona fides cannot be imputed to the party concerned, whether or not sufficient cause has been furnished, can be decided on the facts of a particular case and no straitjacket formula is possible.(Vide: Madanlal v. Shyamlal, 2002(2) RCR (Civil) 361; and Ram Nath Sao @ Ram Nath Sahu & Ors. v. Gobardhan Sao & Ors., 2002(2) RCR (Civil) 337.

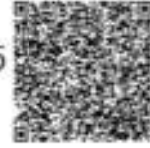


12. It is a settled legal proposition that law of limitation may harshly affect a particular party but it has to be applied with all its rigour when the statute so prescribes. The Court has no power to extend the period of limitation on equitable grounds. "A result flowing from a statutory provision is never an evil. A Court has no power to ignore that provision to relieve what it considers a distress resulting from its operation." The statutory provision may cause hardship or inconvenience to a particular party but the Court has no choice but to enforce it giving full effect to the same. The legal maxim "dura lex sed lex" which means "the law is hard but it is the law", stands attracted in such a situation. It has consistently been held that, "inconvenience is not" a decisive factor to be considered while interpreting a statute.

13. The Statute of Limitation is founded on public policy, its aim being to secure peace in the community, to suppress fraud and perjury, to quicken diligence and to prevent oppression. It seeks to bury all acts of the past which have not been agitated unexplainably and have from lapse of time become stale. According to Halsbury's Laws of England, Vol. 24, p. 181:

"330. Policy of Limitation Acts. The courts have expressed at least three differing reasons supporting the existence of statutes of limitations namely,(1) that long dormant claims have more of cruelty than justice in them, (2) that a defendant might have lost the evidence to disprove a stale claim, and(3) that persons with good causes of actions should pursue them with reasonable diligence".

An unlimited limitation would lead to a sense of insecurity and uncertainty, and therefore, limitation prevents disturbance or deprivation of what may have been acquired in equity and justice by long enjoyment or what may have been lost by a party's own inaction, negligence' or laches.



(See: Popat and Kotecha Property v. State Bank of India Staff Assn., 2005(4) RCR (Civil) 334 : (2005) 7 SCC 510 Rajendar Singh & Ors. v. Santa Singh & Ors., AIR 1973 Supreme Court 2537 and Pundlik Jalam Patil v. Executive Engineer, Jalgaon Medium Project, (2008) 17 SCC 448

14. In P. Ramachandra Rao v. State of Karnataka, 2002(2) RCR (Criminal) 553 , this Court held that judicially engrafting principles of limitation amounts to legislating and would fly in the face of law laid down by the Constitution Bench in A. R. Antulay v. R.S. Nayak, 1992(2) RCR (Criminal) 634.”

9(ix) In so far as Section 14 of the Limitation Act is concerned, a Three Judges Bench examined the issue in the case of *Kalpraj Dharamshi and another versus Kotak Investment Advisors Limited and another (2021) 10 Supreme Court Cases 401*. The Supreme Court of India noticed the conditions/principles required for pressing into service Section 14 of the Limitation Act;

- “(1) Both the prior and subsequent proceedings are civil proceedings prosecuted by the same party;*
(2) The prior proceeding had been prosecuted with due diligence and in good faith;
(3) The failure of the prior proceeding was due to defect of jurisdiction or other cause of like nature;
(4) The earlier proceeding and the latter proceeding must relate to the same matter in issue; and
(5) Both the proceedings are in a court.”

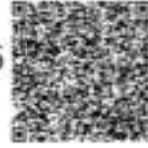
9(x). The law on the issue can be summarised to the effect that where a case has been presented in the court beyond limitation, the applicant has to explain the court as to what was the "sufficient cause" which means an adequate and enough reason which prevented it to approach the court within limitation. In case a



party is found to be negligent, or for want of bona fide on its part in the facts and circumstances of the case, or found to have not acted diligently or remained inactive, there cannot be a justified ground to condone the delay. No court could be justified in condoning such an inordinate delay by imposing any condition whatsoever. The application is to be decided only within the parameters laid down by this court in regard to the condonation of delay. In case there was no sufficient cause to prevent a litigant to approach the court on time condoning the delay without any justification, putting any condition whatsoever, amounts to passing an order in violation of the statutory provisions and it tantamounts to showing utter disregard to the legislature. As regards Section 14 of the Limitation Act as well, the principles laid down by the Supreme Court of India have been noticed in the preceding paragraph.

10. Reverting to the facts of the case, in the considered opinion of this Court, the First Appellate Court fell into error by rejecting the application. Merely because the petitioners were advocates would not mean that the filing of the revision petition was not bonafide or that same was not being prosecuted with due diligence. The jurisdiction of this Court was invoked and the order rejecting the plaint was challenged. Though, the said order was appealable, at times, petitions under Section 227 of the Constitution of India are entertained if the order is found to be palpably illegal and without jurisdiction. The Coordinate Bench was of the view that as the remedy of appeal was available, the revision petition was devoid of merit. Under the circumstances, the petitioners were well within their rights to prefer an appeal. In the considered opinion of this Court, it was a fit case where powers under Section 14 of the Limitation Act should have been exercised.

In view of the above, the present petition is allowed. The impugned



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order dated 30.01.2025, passed by the Court of learned Additional District Judge, Chandigarh is set aside and the application under Section 14 of the Limitation Act is allowed.

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

(VIKRAM AGGARWAL)
JUDGE

22.04.2025

mamta

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No