

(1998) 03 P&H CK 0202

In the Punjab And Haryana At Chandigarh

Case No : Civil Miscellaneous No"s. 4751-C and 4852-C of 1997 and Regular
Second Appeal No. 2873 of 1997 (O and M)

Gram Panchayat

APPELLANT

Vs

Prem Singh

RESPONDENT

Date of Decision : 19-03-1998

Acts Referred:

Limitation (Amendment) Act, 1903 — Section 5

Citation : (1998) 119 PLR 325 : (1998) 2 RCR(Civil) 593

Hon'ble Judges : Swatanter Kumar, J

Bench : Single Bench

Advocate : B.S. Jaiswal, for the Appellant; K.S. Dadwal, for the Respondent

Final Decision : Dismissed

Judgement

Swatanter Kumar, J.—These are the two applications filed by the applicant-appellant, both u/s 5 of the Limitation Act for condoning the delay of more 38 days in re-filing the appeal while other is for condoning the delay of 103 days in filing the appeal. First, I would proceed to deal with the application for condoning the delay in filing the appeal

2. It is admitted case between the parties that the judgment was passed on 5.11.1996 and the application for obtaining the certified copy of the judgment was given on 8.1.1997. The copy was ready on 24th January, 1997 and was delivered to the counsel on 25th January, 1997. The present appeal was filed for the first time on 3.6.1997. The appeal was returned with three objections to the counsel on 3.7.1997. Thereafter, it was filed on 9.8.1997. The reason given for condoning the delay of 103 days in filing the appeal is that the Sarpanch of the Gram Panchayat was placed under suspension and no acting Sarpanch was appointed to pursue the proceedings before the learned District Judge. It is stated that the suspension order of the Sarpanch was cancelled on 9.5.1997 and thereafter the present appeal has been filed, as aforestated.

3. Reply to this application was filed, where the averments have been disputed and it is stated that in any case even if there was suspension of the Sarpanch, the business of the Gram Panchayat was being carried on in regard to all other matters and as such there is no sufficient cause reflected much less a reasonable cause which would justify the condonation of delay.

4. The application filed by the appellant does not give complete details; nor any documents have been annexed to the application which could support the averments made in the application. Even otherwise, it was not disputed before me that the Gram Panchayat was functioning for all the period in question. It is otherwise a well known fact that merely because Sarpanch has been placed under suspension ipso facto does not effect the functioning of the Gram Panchayat as a body under the relevant provisions. Once the remedy under a statute became barred by time a definite right accrues to the other party. This right which in law has to be construed as a valuable right can be taken away only when sufficient and good cause supported by bonafide action is shown to have been taken by the applicant who approaches the Court for condonation of delay. Not even a whisper has been stated in the application that what steps were taken by the Sarpanch which could not have been taken by the Sarpanch earlier, after 9.5.1997 when the order of suspension was revoked. There is no explanation on record whatsoever for the period prior to 9.5.1997 and even thereafter till the institution of the present appeal. At this stage, it may be appropriate to make a reference to the recent judgment of Hon"ble Supreme Court in the case of P.K. Ramachandran v. State of Kerala and Anr. J.T. 1997 (8) 189 where the Hon"ble Supreme Court held as under :-

"The Court has not recorded any satisfaction that the explanation for the delay was either reasonable or satisfactory, which is essential pre-requisite to condonation of delay.

Law or limitation may harshly effect a particular party but it has to be applied with all its rigour when the statute so prescribe and the Courts have no power to extend the period of limitation on equitable grounds. The discretion exercised by the High Court was, thus, neither proper nor judicious. The order condoning the delay cannot be sustained. This appeal, therefore, succeeds and the impugned order is set aside. Consequently, the application for condonation of delay filed in the High Court would stand rejected and the Miscellaneous First Appeal shall stand dismissed as barred by time. No costs (Paras 3 and 6)."

For the reasons aforesaid, I have no hesitation in coming to the conclusion that no reasonable much less sufficient or good cause have been shown by the appellant-applicant for condonation of 103 days delay in filing the present appeal.

Consequently, this application is dismissed.

C.M. No. 4852-C of 1997

Again no sufficient cause have been shown for condonation of delay in re-filing

the appeal. One paragraph application lacks all material and particular facts and what steps were taken by the appellant from June, 1997. In any case, this application becomes inconsequential in view of the fact that C.M. No. 4752-C of 1997 has been dismissed.

R.S.A. No. 2873 of 1997

As I have declined to condone the delay this appeal does not survive for consideration.

Dismissed.