

(1985) 12 P&H CK 0062
In the Punjab And Haryana At Chandigarh
Case No : Civil Revision No. 2709 of 198

Jagdish Chand and Others

APPELLANT

Vs

Prabhu Mittal and Others

RESPONDENT

Date of Decision : 10-12-1985

Acts Referred:

Citation : (1985) 12 P&H CK 0062

Hon'ble Judges : G.C. Mital, J

Bench : Single Bench

Advocate : H.L. Sarin, for the Appellant; Monohar Lal, for the Respondent Nos. 2 to 6, for the Respondent

Judgement

G.C. Mital, J.—After bearing the learn-ed counsel for the parties, I am of the view that the Defendant had made out a sufficient cause for condonation of delay before the lower appellate Court. Vidya Nand the predecessor-in interest of the Petitioner could have filed appeal upto 16th July, 1983. the day the Courts were to open after summer break Vidya Nand went to Faridabad on 13th July, 1983 to engage a counsel and to file appeal but before he could contact the Advocate, he suffered heart attack and was taken to Dr. J. K. Kundra who advised him rest for two weeks Vidya Nand at that time was an old man of about 78 years. The appeal was filed on 27th July, 1983 and ultimately he died on 12th December, 1983 and his legal representatives continued the appeal before the lower appellate Court While filing appeal, Vidya Nand had given the reasons for condonation of delay and the same were supported by his affidavit and certificate of the doctor Exhibit AI. The appellate Court did not believe the affidavit and the certificate. The certificate was not believed because Dr Kundra was not produced as a witness Once, the certificate was allowed to be exhibited without objection, the mode of proof became immaterial. Moreover, in such matters the strict rule of procedure is not to be resorted to. The matter can be decided on the basis of affidavits. Under the circumstances, I am of the view that sufficient cause was made on the record for condonation of delay of about 11 days.

2. Consequently, the revision is allowed, the order of the Additional District Judge, Faridabad, dated 16th May, 1985, is hereby set aside and that Court is directed to decide the appeal on merits. The parties through their counsel are directed to appear before that Court on 8th January, 1986.