

(1986) 05 P&H CK 0123
In the Punjab And Haryana At Chandigarh
Case No : Civil Revision No. 1077 of 1986

Mansha Singh

APPELLANT

Vs

Municipal Committee, Jalalabad

RESPONDENT

Date of Decision : 28-05-1986

Acts Referred:

Limitation Act, 1963 — Section 5

Citation : (1986) RCR(Rent) 462

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

Bench : Single Bench

Advocate : M.L. Sarin, for the Appellant; R.S. Mongia, for the Respondent

Final Decision : Allowed

Judgement

G.C. Mital, J.—9-11-1985 was the last date for filing of the appeal before the District Judge, 10th to 12th November, 1985, were holidays and the appeal was filed on 13-11-1985. The appeal was supported by an application u/s 5 of the Limitation Act along with an affidavit and the Appellant was suffering from fever on 8-11-1985 and was advised rest for two days. Certificates of the doctor dated 9-11-1985 was also attached with the application for condonation of delay. The learned District Judge was of the view that the explanation furnished seemed to be an explanation of convenience and the doctor's certificate did not deserve credence. In this view of the matter the doctor's certificate and the explanation were ignored and the appeal was dismissed as time barred. This is revision against the aforesaid order.

2. After hearing the learned Counsel for the parties and on consideration of the matter, I am of the view that the court below took a rather strict view of the matter instead of considering the matter liberally. Virtually there is one day's delay in this case. The counsel for the Respondent has not been able to show as to what was the ulterior motive of the Appellant in not filing the appeal within limitation. The point involved in this case is of substantial importance between the parties and normally the Appellant would not have allowed the trial court

judgment to become final due to inaction on his part.

3. For the reasons recorded above, this revision is allowed, and the delay in filing the appeal before the trial court is hereby condoned. As a result, the order of the District Judge dated 15-1-1986 is set aside. The District Judge is directed to decide the appeal within three months of the appearance of the parties before him. The parties, through their counsel have been directed to appear before the District Judge, Ferozepore, on 13-6-1986.