
(2005) 12 P&H CK 0031
In the Punjab And Haryana At Chandigarh
Case No : Civil Revision No. 12781 of 2004

Municipal Corporation

APPELLANT

Vs

Smt. Bimla Kumari and Others

RESPONDENT

Date of Decision : 19-12-2005

Acts Referred:

Citation : (2006) 2 CivCC 496 : (2006) 143 PLR 65 : (2006) 3 RCR(Civil) 4 : (2006) 1 RCR(Civil) 764

Hon'ble Judges : Jasbir Singh, J

Bench : Single Bench

Advocate : Harsh Aggarwal, for the Appellant; H.O. Sharma, for Respondent Nos. 1 to 3 and 5., for the Respondent

Judgement

Jasbir Singh, J.—It is an admitted fact that appeal filed by the petitioner, was dismissed being barred by four days of limitation. Counsel for the petitioner states that the order, passed by the appellate Court below, in view of facts and circumstances of the case, was not justified.

2. After hearing learned Counsel for the parties, this Court feels that the appellate Court below has taken a very strict view on merits in the present case. Delay was not very huge which could not have been condoned in the interest of justice, especially when the petitioner is a corporate legal body and for any fault committed by its offices, it was not supposed to suffer. It is further revealed from the record that there was sufficient reason, on the basis of which delay was required to be condoned. Otherwise also, it is desirable, except in cases where delay is huge/mala fide, the Courts shall decide the matters on merits. Rules and procedure are handmaid of justice. These are meant to enhance the same and not to subvert it.

3. Rules are handmaid of justice. These are meant to enhance the cause of justice and not to scuttle the same. Their Lordships of the Supreme Court in S. Amarjit Singh Kalra (dead) by Lrs. and Others and Smt. Ram Piari (dead) by L.Rs. and Others Vs. Smt. Pramod Gupta (dead) by Lrs. and Others, of the

judgment had opined as under:

Laws of procedure are meant to regulate effectively, assist and aid the object of doing substantial and real justice and not to foreclose even an adjudication on merits of substantial rights of citizen under personal, property and other laws. Procedure has always been viewed as the handmaid of justice and not meant to hamper the cause of justice or sanctify miscarriage of justice.

4. View extracted above, was reiterated by their Lordships of the Supreme Court in N. Balaji Vs. Virendra Singh and Others, , wherein after noting ratio of the judgment, referred to above, in para 10 of the judgment, it was observed that the procedure would not be used to discourage the substantial and effective justice but would be so construed as to advance the cause of justice.

5. In view of the facts of the present case and judgments, referred to above this revision petition is allowed, order under challenge is set aside and delay in filing the appeal is condoned. Appellate Court below is directed to hear the appeal on merits and it will be highly appreciated if the Court below makes an attempt to dispose of the appeal within four months from the date when the parties put in appearance before it. This order is subject to payment of Rs. 5,000/- as costs to be paid by the petitioner to the respondents on the date, when parties put in appearance before the trial Court on January 9, 2006.