

(2010) 08 P&H CK 0033
In the Punjab And Haryana At Chandigarh

Smt. Banarsi Devi	Vs	APPELLANT
Rajender @ Rajender Kumar and Others		RESPONDENT

Date of Decision : 26-08-2010

Acts Referred:

Citation : (2010) 08 P&H CK 0033

Hon'ble Judges : L.N. Mittal, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

L.N. Mittal, J

CM No. 10982.C of 2008

1. This is application by appellant for condonation of delay of 296 days in filing the appeal. The ground on which condonation of delay is sought is reproduced herein under:

That the appellant is widow and illiterate lady and does not aware the law of limitation. She was under the impression that the appeal can be filed at any stage, therefore, she contacted undersigned Counsel on 18.9.2008 and only then the undersigned Counsel has told that the appeal is time barred and due and now it is time barred and due to this reason the delay has occurred in filing the appeal which is neither intention nor willful.

2. I have heard learned Counsel for the parties and perused the case file.

3. learned Counsel for the applicant-appellant contended that the applicant-appellant being widow and illiterate was not aware that there was any period of limitation for filing the appeal and she was under the impression that the appeal could be filed any time.

4. On the other hand, learned Counsel for respondent No. 1 contended that no ground for condonation of long delay of 296 days is made out from the

averments pleaded in the application.

5. I have carefully considered the rival contentions. The only ground pleaded in the application for condonation of long delay of almost 10 months is that the applicant-appellant is illiterate widow and was not aware of the law of limitation and was under the impression that the appeal could be filed at any stage. Apparently such long delay cannot be condoned on such specious ground in spite of law of condonation of delay being liberal. The aforesaid general plea does not make any ground for condonation of delay much less for condonation of delay of long period of 296 days in filing the appeal. It may be added that the applicant-appellant was represented by counsel in the trial court as well as in the lower appellate court. Consequently, the plea of illiteracy and ignorance of the law of limitation cannot be accepted as a ground to condone the long delay of 296 days because the applicant-appellant was availing the services of Advocates in the courts below. First appeal had also been filed by the applicant-appellant and the said appeal was apparently filed within limitation. Consequently, it cannot be said that the applicant-appellant was not aware of the law of limitation. There is, thus, no ground for condonation of long delay of 296 days in filing the appeal. Accordingly, the application is dismissed.

RSA No. 3698 of 2008

6. Since application for condonation of delay in filing the appeal has been dismissed, the appeal is dismissed as time barred.