

ITEM NO.1701

COURT NO.15

SECTION IV-B

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s).5916/2011

HARNAM KAUR (D) THR.LRS.

Petitioner(s)

VERSUS

KARNAIL SINGH (D) THR.LRS.. & ORS.

Respondent(s)

(ONLY I.A.NO.58207, 58210 & 58211 OF 2021 (APPLICATION FOR SUBSTITUTION OF DECEASED R.NO.1(a), APPLN. FOR C/DELAY OF 607 DAYS IN FILING APPLN. FOR SUBSTITUTION AND APPLN. FOR SETTING ASIDE THE ABATEMENT) IN SLP NO. 5916 OF 2011 TO BE LISTED.)

(IA No. 58207/2019 - APPLICATION FOR SUBSTITUTION, IA No. 58210/2019 - CONDONATION OF DELAY IN FILING SUBSTITUTION APPLN. AND IA No. 58211/2019 - SETTING ASIDE AN ABATEMENT)

Date : 15-09-2023 This matter was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE UJJAL BHUYAN
[IN CHAMBER]

For Petitioner(s) Mrs. Priya Puri, AOR

For Respondent(s) Mr. Nikilesh Ramachandran, AOR
Mr. Ajay Kumar Singh, AOR
Mr. Praveen Jain, AOR

UPON hearing the counsel the Court made the following
O R D E R

I.A. No.58210 of 2019

Heard learned counsel for the parties.

This interlocutory application has been filed by the petitioner for condoning the delay of 607 days in filing the related applications for substituting the names of the legal heirs of deceased respondent No.1(a).

Learned counsel for the petitioner submits that the counsel for respondent No.1(a) had informed the Registry of

this Court vide letter dated 17.04.2018 about the death of the said respondent, though in the said letter, the exact date of death of the said respondent was not mentioned. Later on, after petitioner had obtained the death certificate, it transpired that respondent No.1(a) had expired on 07.05.2017. There was, thus, delay of almost one year on the part of the learned counsel for the respondent No.1(a) in furnishing the information. Viewed in the above context, the subsequent delay of about 300 days by the petitioner should be liberally construed by the Court.

On the other hand, the learned counsel appearing for respondent No.1(a) referring to the averments made in the objections submits that there is no explanation whatsoever to explain the huge delay of 607 days in filing the application for condonation of delay. He has also adverted to the merit of Special Leave Petition (C) No.5916 of 2011 and submits that the special leave petition has been filed against the order of the Punjab and Haryana High Court dated 10.11.2010 whereby the application filed by the petitioner for restoration of the second appeal being R.S.A. No.1583 of 1979 was dismissed on the ground that there was absolutely no sufficient cause to condone the delay of 06 years and 30 days in filing the application for restoration.

The learned counsel for the petitioner submits that the

petitioner is an aged person of 90 years, suffering from various ailments. Therefore, Court should take a lenient view of the matter.

After hearing the learned counsel for the parties and in the backdrop of the challenge made in the special leave petition, this Court is of the view that there is no good ground to condone the delay of more than 600 days in filing the application for substitution. This Court has perused the averments made in the present application in paragraphs 2 to 9 and finds that no sufficient cause has been shown to justify condonation of delay. That apart, the subject matter of the related special leave petition is itself refusal of the High Court to condone the inordinate delay on the part of the petitioner in seeking restoration of the Regular Second Appeal, which is of the year 1979. What is noticeable is the consistent pattern of delay on the part of the petitioner.

Having regard to the above, the prayer for condonation of delay is declined and the I.A. is dismissed.

In view of the order passed in I.A. No.58210 of 2019, the I.A. Nos. 58207 and 58211 of 2019 seeking substitution to bring on record the LRs of deceased respondent No.1(a) as well as setting aside abatement are also dismissed.

(RAVI ARORA)
COURT MASTER (SH)

(RAVINDER KUMAR)
COURT MASTER (NSH)