

ITEM NO.15

COURT NO.11

SECTION IVB

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 (Civil)...../2011

(CC 9299/2011)

(From the judgement and order dated 27/02/2008 in RSA No. 1537/1985  
and dated 15.3.2011 in CM No. 532/2010 (In RA No. 1/2010) of The  
HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH)

HARNEK SINGH

Petitioner(s)

VERSUS

GURMEL SINGH &amp; ORS.

Respondent(s)

With I.A.1 (C/delay in filing SLP and office report)

Date: 05/07/2011      This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.S. SINGHVI

HON'BLE MR. JUSTICE ASOK KUMAR GANGULY

For Petitioner(s)      Mr.R.K.Kapoor, Adv.

For Respondent(s)

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

These petitions are directed against judgment dated  
27.02.2008 and order dated 15.03.2011 passed by the learned Single  
Judge of the Punjab and Haryana High Court in RSA No.1537/1985 and  
CM No.532-C/2010 respectively.      The petitioner has also filed an  
application for condonation of 1081 days' delay.

We have heard Shri R.K.Kapoor, learned counsel appearing  
for the petitioner and perused the record.

In paragraphs 2 to 4 and 6 and 7 of the application for  
condonation of delay, the petitioner has made the following  
statements:

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"2. That the Special Leave Petitions have been  
filed against two impugned orders.      The first  
impugned order is the order dated 27.2.2008 which  
was the judgment passed by the Hon'ble High Court  
of Punjab and Haryana at Chandigarh in the Regular  
Second Appeal No. 1537 of 1985.

The Second Impugned Order against which the  
Special Leave Petition has been filed is the order  
passed in the review application where C.M.No.  
532-C of 2010(in R.A. No. 1-C of 2010) was filed  
seeking condonation of delay in filing the Review  
Application and the said application for  
condonation of delay was dismissed by the Hon'ble

High Court by the second impugned order dated 15.3.2011.

3. That there is no delay in filing the Special Leave Petition against the impugned order dated 15.3.2011 which has been passed in the Review Application, while there has been a delay in filing the Special Leave Petition against the first order i.e. the order dated 27.2.2008 which was passed in the Regular Second Appeal.

4. That the delay in filing the Special Leave Petition against the first order dated 27.2.2008 has taken place because the petitioner was not aware of the disposal of the Regular Second Appeal and further that he had filed the Review Application before the Hon'ble High Court of Punjab and Haryana i.e. Review Application No.1-C of 2010 along with the condonation of delay application C.M.No. 532-C of 2010. Till the disposal of the Review Application, the Petitioner could not file the Special Leave Petition Against the main order dated 27.2.2008.

6. That the delay in filing the Special Leave Petition against the first order dated 27.2.2008 has occurred since the petitioner was never aware of the final disposal of the Regular Second Appeal No. 1537 of 1985 by order dated 27.2.2008 since in the year,1985, the petitioner has engaged a Senior Counsel of the High Court of Punjab and Haryana Shri Harbans Lal Sarin and he had to defend the case on behalf of the petitioner in the Regular Second Appeal.

7. That in September, 2009, the Petitioner came to know that the respondent Gurmel Singh was actively taking steps for execution of the decree and the petitioner became apprehensive regarding the Regular Second Appeal and, therefore, he contacted the office of Shri Harbans Lal Sarin to know the pendency of the Regular Second Appeal No. 1537 of 1985 which was filed by the Respondent

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Gurmel Singh Before the High Court. The petitioner then came to know that Shri Harbans Lal Sarin had expired in the year 1993 and that the Regular Second Appeal has been allowed against the Petitioner by the Hon'ble High Court by Judgment and decree dated 27.2.2008. In this manner there has been a delay of 1081 days in filing the Special Leave Petition against the main order dated 27.2.2008, though there is no delay in filing the Special Leave Petition against the order dated 15.3.2011, as passed in Review Application No. No.1-C of 2010."

In our view, the cause shown by the petitioner for delayed filing of the special leave petition is wholly unsatisfactory and there is no valid ground much less justification for exercise of power by this Court under Section 5 of the Limitation Act because the petitioner has not explained as to why he had not made any effort to contact the lawyer after filing of the second appeal. It is not possible to believe that the

petitioner did not get in touch with his lawyer for 8 years between the dates of filing of the second appeal by the respondents and the demise of his advocate.

The special leave petition is accordingly dismissed on the ground of delay.

(Satish K.Yadav)  
Court Master

(Phoolan Wati Arora)  
Court Master