



CMP(M) No. 718 of 2021

6.1.2022 Present: Ms. Lalita Verma, Advocate, for the applicants.

Mr. Vivek Singh Thakur, Advocate, for the respondent.

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The present application has been maintained by the applicants under Section 5 of the Limitation Act for condonation of delay of 234 days' in filing the Regular Second Appeal. As per the applicants, the impugned judgment dated 8.4.2019 was passed by learned District Judge, Chamba, whereby he affirmed and upheld the judgment passed by learned Senior Civil Judge, Chamba. It is further averred in the application that certified copy of the impugned judgment dated 8.4.2019 was applied on 22.4.2019 and the same was completed and delivered to learned counsel for the applicants on 14.5.2019. Thereafter, the applicants collected the case file as well as certified copy of the impugned judgment from their counsel and made an application to the HP State Legal Services Authority for providing them free legal aid counsel. The Secretary, HP State Legal Services Authority, vide communication dated 15/17.6.2019, pleased to appoint free legal aid counsel. It is further submitted that applicant No.2 was seriously ill and she remained under treatment and applicant No.1 was required to take her proper care and as a result thereof, they could not contact their counsel and when they contacted their counsel on 26.2.2020, the instant application has been filed.

Learned counsel for the applicants argued that the delay, as occurred was beyond their control.

On the other hand, learned counsel for the respondent vehemently argued that the delay is intentional and day-to-day delay is not explained and taking into consideration the long delay and further that there is no merit in the main case, the application be dismissed.

This Court after going through the pleadings and arguments as advanced by learned counsel for the parties, finds that the applicants are persons from the remote place and it took time to obtain copies and get the matter finalized from the H.P. State legal Services Authority and when the Advocate was appointed by the Legal Aid Committee, the present application was filed along with Regular Second Appeal.

Accordingly, in view of the peculiar facts and circumstances of the case, the delay is sufficiently explained as the same was beyond the control of the applicants and is required to be condoned.

The application stands disposed of.

RSA No _____ of 2022

Be registered.

List for consideration on 11.3.2022.

(Chander Bhusan Barowalia)
Judge

6th January, 2022
(Guleria)