IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CM-4591-C-2020 in/and
RA-RS-28-2020 (O&M) in
RSA-839-1987 (O&M)
Reserved on 03.12.2025
Pronounced on:11.12.2025
Uploaded on :-11.12.2025

Prem Singh and Others ....Appellants

VERSUS

Karam Singh (since deceased) through LRs and Others ....Respondents

CORAM : HON'BLE MS. JUSTICE MANDEEP PANNU

Present: Mr. G.S.Punia, Sr. Advocate with
Mr. P.S.Punia, Advocate
for the appellants.

Mr. Amitabh Tewari, Advocate for appellant No.3.

Mr. Pankaj Bali, Advocate for respondents No.1, 2 and 4.

Mr. Munish Behl, Advocate for respondent No.3.

Mr. S.S.Swaich, Advocate and
Ms. Ishani Goyal, Advocate for respondents No.5 and 6.

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MANDEEP PANNU, J.

CM-4591-C-2020

1. The applicants/appellants have filed the present application under Section 5 of the Limitation Act seeking condonation of delay of 324 days in filing the accompanying review application. The case set up by the applicants is that they could not earlier file the review application as they came to know about the decision dated 28.03.2019 only upon being informed in the second week of March,

2020 . It is further pleaded that thereafter they immediately contacted their counsel, applied for the certified copies of the judgment as well as the power of attorney, and upon obtaining the same, the present review application was filed without any further delay. It is asserted that the delay was neither intentional nor deliberate and that refusal to condone the delay would cause grave prejudice and irreparable loss to the applicants.

2. The respondents have filed a detailed reply opposing the application. It has been pointed out that the story put forth by the applicants is concocted and that they were fully aware of the passing of the judgment on 28.03.2019 since their engaged counsel had appeared and argued the matter at length on that date. It is also the stand of the respondents that the explanation given for the delay is wholly unsatisfactory, contradictory in material particulars, and that no sufficient cause has been shown to condone such an inordinate delay.

3. I have considered the rival submissions and perused the material placed on record. It is settled law that while considering an application for condonation of delay under Section 5 of the Limitation Act, the Court is required to adopt a justice-oriented approach. The length of delay is not, by itself, decisive, what is material is whether the explanation furnished discloses a sufficient cause which prevented the applicant from approaching the Court within the prescribed period of limitation. The expression “sufficient cause” should receive a liberal construction so as to advance substantial justice, provided the explanation is not tainted with mala fides or an attempt to deliberately delay the proceedings.

4. In the present case, although the explanation put forth by the applicants is not free from inconsistencies and may not inspire full confidence, yet

it cannot be ignored that the matter pertains to an old litigation involving family members and the delay does not appear to be intentional or actuated by mala fide motives. The respondents have alleged that the applicants were aware of the decision from the very beginning, however, the applicants have taken a specific stand that they came to know only later, and this assertion, though doubtful, cannot be conclusively disbelieved at this preliminary stage.

5. More importantly, refusal to condone the delay would result in non-adjudication of the review application altogether, which may cause serious prejudice to the applicants. The Supreme Court has repeatedly emphasized that unless gross negligence or deliberate inaction is clearly established, the Court should lean towards ensuring adjudication on merits rather than shutting the doors of justice on technicalities of limitation.

6. Keeping in view the aforesaid legal position and examining the explanation cumulatively, I am of the considered opinion that a case is made out for adopting a liberal approach. The ends of justice would be better served if the applicants are afforded an opportunity of having their review petition examined on merits.

7. Accordingly, without expressing any opinion on the correctness or otherwise of the averments made in the application regarding the cause of delay, the delay of 324 days in filing the review application is condoned in the interest of justice.

8. The application under Section 5 of the Limitation Act is allowed.

RA-RS-28-2020 (O&M)

1. The present review petition has been filed by the applicants seeking review of the judgment dated 28.03.2019 passed by this Court in RSA No.1066 of 1987. The review petition prays for recall and setting aside of the said judgment on various grounds which the applicants contend constitute errors apparent on the face of the record and/or newly discovered material justifying exercise of review jurisdiction. The respondents have filed a detailed reply opposing the review petition. The reply traverses each ground raised in the petition and emphatically contends that the review petition is an attempt to re-argue the appeal and to re-open issues which were fairly and finally adjudicated in RSA No.1066 of 1987. A rejoinder to the respondent's reply has been filed by affidavit of Jitender Singh on behalf of the applicants, which reiterates the contentions raised in the review petition. For the purposes of decision of the review petition, the Court has considered the petition, the reply, the rejoinder and the record of RSA No.1066 of 1987, including the impugned judgment dated 28.03.2019 and considered the respective contentions of both the parties who argued on the same line as per their review petition and its reply and rejoinder.

2. The brief procedural background which is relevant for deciding the review petition may be stated shortly. The RSA culminated in a speaking judgment dated 28.03.2019 in which the Court returned detailed findings on the rival contentions of the parties after hearing counsel and on the basis of the material on record. The applicants challenge those findings by way of this review petition. Several points raised in the petition revolve around (i) the alleged want of authority of certain counsel who addressed the Court in the RSA, (ii) the dates on which the

applicants, or their co-appellants, purportedly came to know of the judgment, and (iii) alleged legal errors in the conclusions drawn in the impugned judgment. The respondents' reply deals with each of these contentions and, in particular, draws attention to the settled legal position restricting the ambit of review, to the existence of powers of attorney filed earlier on the file and to the fact that the impugned judgment was a reasoned decision which deals with and disposes of the very issues which the applicants now seek to reopen.

3. It is necessary at the outset to examine the limited scope of the review jurisdiction. A review petition is not an appeal in disguise and the Court's power of review is narrowly circumscribed. Review jurisdiction exists only to rectify (a) patent or manifest errors apparent on the face of the record, (b) mistakes which are self-evident and do not require elaborate argument or re-appreciation of evidence to be detected, (c) where discovery of new and material evidence has been made which could not, despite due diligence, have been produced earlier, or (d) on account of clerical or arithmetical mistakes or accidental slips. Errors which require re-examination of the evidence, re-weighing of factual material, or re-arguing points which have been fully considered by the Court are not matters for review. The petition before this Court must therefore be tested against these well-settled parameters.

4. Applying those parameters to the present case, the Court finds as follows. With regard to the allegation that counsel who argued the RSA were not properly authorised and that powers of attorney filed subsequently were invalid, the record discloses that powers of attorney in favour of the advocates identified by the applicants were filed in the Registry in January 2017. The cause list and the

regular lists over the subsequent years indicate that the appeal remained on the board and was listed before different Benches from time to time. The mere fact that the names of different Benches or different counsel appear on different dates does not, of itself, indicate any irregularity or give rise to an error apparent on the face of the record. Where a litigant files a power of attorney and the advocate appears and addresses the Court, the question of want of authority is essentially an internal matter between the litigant and the advocate and does not automatically invalidate the proceedings or the judgment unless it is demonstrably shown that a person who had no authority at all obtained orders which could not have been passed but for his fraud or misrepresentation and that fact is manifest on the record. No such palpable and self-evident misrepresentation is established in the present review petition. The petition advances nothing beyond a claim that some subsequently engaged counsel was not the counsel who argued the appeal. But that contention, even if accepted, would at best be a matter of professional arrangement and would not show an error on the face of the record requiring review.

5. On the principal contention that there are legal errors in the judgment that findings returned in favour of the respondents were erroneous in law, the review petition invites the Court to examine the conclusions afresh. The impugned judgment is a reasoned and speaking judgment which records the contentions advanced by both sides, examines the evidence and materials on record and applies the relevant principles of law. The review petition does not point to any manifest contradiction or arithmetic/clerical mistake in the judgment which would qualify as an error apparent on the face of the record, nor does it produce any new and material document which could not have been produced earlier. The grounds raised

are, in fact, an invitation to re-open the factual and legal determinations made after arguments in the RSA. That is impermissible in review. Where the Court in the RSA has returned its conclusions after consideration of the record, the remedy available, if any, was to pursue further proceedings in the appropriate forum (for example, an appeal to a higher forum if maintainable) but not to use review to re-argue points which have been dealt with.

6. The rejoinder and the petition repeatedly assert that the earlier Courts below and this Court have been mistaken on certain factual facets of the case for example, the nature of the family settlement, the status of persons identified as members of the family, and the validity of certain earlier deeds. That contention again raises an appeal-type grievance which the applicants are impermissibly seeking to re-agitate in a review petition. The Courts below and this Court have recorded findings, including findings on fraud, misrepresentation and on the character of the transaction relied upon by the appellants. The applicant has not produced any new evidence such as a newly discovered document or a witness statement which could not, with due diligence, have been produced earlier which would justify reopening these findings. The law does not permit review to serve as a second hearing for the re-appreciation of evidence. In this regard, the Court specifically notes that the review applicants have not pleaded, much less proved, that despite due diligence they could not earlier discover any material fact now sought to be relied upon. The rejoinder merely repeats the contentions already advanced.

7. Certain procedural objections have been raised about listing and the presence/absence of the names of advocates in the cause list and taken-up list. The

Court has examined the listing practice and finds that changes of list, differences in the Judges before whom the matter appeared, and the fact that the matter was periodically listed do not, in themselves, amount to an error apparent on the face of the record. The listing arrangement is an administrative function and, unless it is shown that the listing produced a procedural travesty that caused a manifest illegality, it is not a ground for review. No such travesty is made out on the record.

8. In view of the above discussion, this Court is satisfied that the applicants have not made out any of the narrow grounds which would entitle them to review. The petition seeks re-consideration of findings of fact and conclusions of law after full hearing. It asks for re-opening of issues which were fully argued before the RSA bench. It does not produce new and material evidence that could not have been produced earlier despite due diligence and it does not point to any patent or self-evident error in the impugned judgment which requires correction on review. To allow review on such grounds would be to convert review jurisdiction into an appellate rehearing and would be contrary to established jurisprudence.

9. For the reasons mentioned above, the review petition is without merit and must be dismissed.

10. The review petition is accordingly dismissed on merits.

11. Pending applications, if any, also stand disposed of.

December 11, 2025 **(MANDEEP PANNU)**
tripti **JUDGE**

Whether speaking/non-speaking : Speaking
Whether reportable : Yes/No.