

**(2012) 10 P&H CK 0143**

**High Court Of Punjab And Haryana At Chandigarh**

**Case No:** CR No. 2341 of 2012

Narinderjit Singh Tiwana

APPELLANT

Vs

Haryana State and Others

RESPONDENT

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**Date of Decision:** Oct. 19, 2012

**Acts Referred:**

- Constitution of India, 1950 - Article 227

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

**Bench:** Single Bench

**Advocate:** Chirag Wadhva, for Mr. Parminder Singh, for the Appellant; Rajesh Garg, Additional Advocate General for Respondents No. 1 to 3, for the Respondent

**Final Decision:** Allowed

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**Judgement**

L.N. Mittal, J.

Petitioner-Narinderjit Singh Tiwana, who is one of the legal representatives of original plaintiff Saroop Singh since deceased, has filed this revision petition under Article 227 of the Constitution of India aggrieved by order dated 25.02.2012 Annexure P-5 passed by the lower appellate Court thereby declining to condone the delay of two days only in filing the first appeal and consequently dismissing the appeal as well being time barred. Respondents No. 1 to 3 have appeared through State counsel. None is appearing for respondent No. 4 in spite of service. Proforma respondents No. 5 to 8 not served but they were also not represented in the lower appellate Court. Accordingly as prayed for by counsel for the petitioner, service of proforma respondents No. 5 to 8, who are sisters and brother of the petitioner himself, is dispensed with.

- I have heard Learned Counsel for the appearing parties and perused the case file.
- Impugned order depicts that sometimes hyper technical and impractical approach of the Court may result in injustice or miscarriage of justice. The petitioner alleged that due to death of his uncle, he was busy in performing his last rites at

Haridwar and Kiratpur Sahib and returned on 06.06.2009 at night and the appeal was, therefore, filed on 08.06.2009. It appears that the limitation period expired on 06.06.2009 and it was Sunday on 07.06.2009 and the appeal was filed on 08.06.2009. In spite thereof, learned lower appellate Court declined to condone the delay of two days in filing the first appeal.

4. Learned Presiding Officer of the lower appellate Court who passed the impugned order is advised to take holistic and practical approach in such matters because otherwise, it results in injustice and miscarriage of justice. This order be conveyed to the learned officer wherever he is posted. Keeping in view the aforesaid, nothing more is required to be said. Impugned order of the learned lower appellate Court is patently perverse and illegal and suffers from grave jurisdictional error. Accordingly, instant revision petition is allowed. Impugned order Annexure P-5 passed by the lower appellate Court is set aside. Delay of two days in filing the first appeal is condoned. The first appeal stands restored to the files of the lower appellate Court. Parties are directed to appear before the lower appellate Court on 22.11.2012. The first appeal shall now be decided on merits in accordance with law by the lower appellate Court.