

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**

**114**

**Date of decision: 28.10.2025**

**1.CR-7485-2017 (O&M)**

**Steel Authority of India and others**

**...Petitioner(s)**

**Vs.**

**Rajeev Gupta and another**

**...Respondent(s)**

**AND**

**2.RSA-1146-2021 (O&M)**

**Steel Authority of India and others**

**...Petitioner(s)**

**Vs.**

**Rajeev Gupta and another**

**...Respondent(s)**

**CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Avnish Mittal, Advocate for the petitioners  
in CR-7485-2017 and for the appellants in  
RSA-1146-2021.

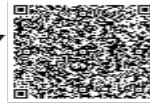
Mr. Pavan Malik, Advocate for the respondents  
in CR-7485-2017 and for the respondents  
in RSA-1146-2021.

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**NIDHI GUPTA, J.**

**CR-7485-2017 (O&M)**

Present Civil Revision Petition under Article 227 of  
Constitution of India has been filed by the petitioners/defendants  
against the order dated 13.07.2016 (Annexure P-5) passed by Id.  
Additional Civil Judge (Senior Division), Amloh; whereby application filed

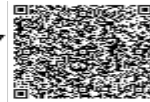


by the petitioner under Order 9 Rule 13 CPC read with Section 151 CPC for setting aside ex parte judgment and decree dated 25.01.2011 and ex parte order dated 09.03.2010, has been dismissed. Challenge in the present petition is also laid to the order dated 03.05.2017 (Annexure P-7) passed by the learned Additional District Judge, Fatehgarh Sahib; whereby the appeal filed by the petitioner against the order dated 13.07.2016, has been dismissed.

**RSA-1146-2021 (O&M)**

Present Regular Second Appeal has been filed by the defendants against the concurrent judgments and decrees of the learned Courts below; whereby suit filed by the plaintiffs/respondents for mandatory injunction directing the defendants to make delivery of a remainder of order dated 19.03.1998, the payment of which had already been received by the defendants being the goods short supplied by the defendants on account of defect in weigh-bridge, has been decreed by both the Courts below.

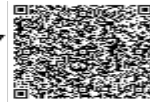
2. Brief facts of the case as pleaded in the plaint, are that the plaintiffs had been purchasing the iron and steel material from the appellants/defendants. On 19.03.1998, plaintiffs placed an order for supply of 1500 MT slab end cuttings. Order was accepted by the defendants; and payments made by the plaintiffs by way of demand drafts were also accepted and encashed. On 6.4.1998, plaintiff took delivery of the order supplied by way of four wagons and detected



shortage of 38.545 M/T in these four wagons. Plaintiff immediately informed the defendant regarding the said shortage on the same date. It was informed by the defendants that officers are being deputed to visit the spot for verification of weight at the spot. Plaintiff was informed by the Deputy CMM Delhi/defendant no.5 that the Weigh bridge where goods were weighed was defective. Team of officials visited on 8.4.1998 and they were apprised of the shortage detected in four wagons. Plaintiff made repeated requests to the team of the defendant to weigh the material. However, the delivered material was not weighed. Accordingly, plaintiff had no option but to take delivery because entire value of goods already stood paid. Thereafter, despite repeated intimation, defendant slept over the matter and did not even bother to give reply. Plaintiff sent legal notice through counsel on 20.5.1998. However, no reply was received from the defendant. Accordingly, plaintiff again sent a Notice on 15.10.1999 under registered cover. But defendant never replied. Hence, present suit was filed on 16.3.2000.

3. The defendant/appellants put in appearance and filed written statement. However subsequently, the defendants were proceeded against ex-parte by order dated 9.3.2010; as the learned counsel representing the defendant pleaded 'no instructions.'

4. Consequentially, the suit of the plaintiffs was partly-decreed vide ex parte judgment dated 25.01.2011 for the relief of recovery of



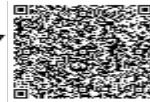
Rs.24,09,153/- alongwith interest @ 6% p.a. from 07.04.1998 till actual realization along with cost of the suit.

5. The Civil Appeal filed by the defendants was dismissed by the Id. Additional District Judge, Fatehgarh Sahib vide judgment and decree dated 27.7.2020. Hence, present second appeal by the defendant.

**Main cases:**

Both, the above said Revision Petition and Regular Second Appeal, are being disposed of by this common order as both proceedings emanate from the same civil suit and are between the same parties and issues involved in both cases are identical. For the sake of brevity, facts are being taken from, and parties are being referred to as per their status in CR-7485-2017.

2. It is *inter alia* submitted by learned counsel for the petitioners that learned Courts below were in error in dismissing the application of the petitioners as they failed to appreciate that in the civil suit filed by the respondents/plaintiffs, the petitioners had duly put in appearance and had even filed written statement. It is submitted that however during the pendency of the suit, learned counsel for the petitioners pleaded no instructions. As such vide order dated 09.03.2010 (Annexure P-1), learned Trial Court directed the petitioners to be proceeded against ex parte. Consequentially, suit of the respondents/plaintiffs was decreed ex parte vide judgment and decree dated 25.01.2011 (Annexure P-2). It is submitted that it is only during the

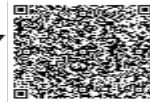


pendency of the execution proceedings that the petitioners discovered about the factum of ex parte judgment and decree dated 25.01.2011; and immediately moved application dated 18.09.2013 (Annexure P-3) under Order 9 Rule 13 read with Section 151 CPC for setting aside ex parte judgment and decree.

3. Learned counsel contends that it is relevant to point out that while passing the impugned orders, the learned courts below have not appreciated the settled principles of law in which it has been held by the Hon'ble Supreme Court in number of judgments that once the counsel for the parties have no instructions then the court has no option but to issue notice to the client so that the client should not suffer because of non-appearance of the counsel. However, in the present case, the said settled principles of law has been ignored by the learned courts below while passing the impugned orders, Annexure P-5 and P-7, respectively.

4. It is submitted that in these circumstances, it was incorrect for learned Courts below to infer that the present application had been filed by the petitioners only to delay the matter. Thus, impugned orders passed by learned Courts below are based on conjectures and surmises. It is argued that the learned Courts below failed to appreciate that petitioners do not stand to gain anything by not putting appearance before the learned Courts below.

5. On merits, learned counsel for the petitioners/defendants further valiantly argues that a perusal of the impugned orders would

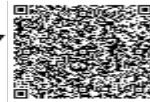


show that learned Trial Court was merely influenced by the fact that since the petitioners/defendants had not appeared therefore, the suit of the plaintiff be decreed. It is submitted that the impugned Judgments and decrees of the learned Courts below are, therefore, unsustainable as even no issue-wise findings have been given. It is submitted that even the Civil Appeal preferred by the petitioners before the first Appellate Court has been dismissed only on grounds of delay.

6. He accordingly prays for setting aside the impugned orders dated 13.07.2016 (Annexure P-5); 03.05.2017 (Annexure P-7) and allow application dated 18.09.2013 (Annexure P-3) in the Revision Petition; and for setting aside the impugned judgments and decrees dated 25.01.2011 and 27.07.2020 respectively in the Second Appeal.

7. *Per contra*, learned counsel for the respondents/plaintiffs vehemently opposes submissions made on behalf of the petitioners and submits that the entire blame for non-appearance on behalf of the defendants/petitioners cannot be placed upon the counsel. It is also for the petitioners to be a vigilant litigant and pursue litigation diligently.

8. It is further submitted that the impugned judgments and decrees suffer from no error whatsoever. It is submitted that although the decree passed by Id. Trial Court is *exparte* however, the same is passed on the basis of report of the fact finding Committee which comprises of Chairman of defendant-company itself; whereupon it was found that there was short supply of material supplied by defendant to



the plaintiff. Accordingly, defendant was directed to pay the decretal amount to the respondent. Learned counsel for the respondents accordingly prays for dismissal of the present Civil Revision and also the Second Appeal.

9. No other argument is raised on behalf of the parties. I have heard learned counsel and perused the case file in great detail.

10. Brief facts of the case in chronological order are as follows: –

**16.03.2000:** The plaintiffs/respondents filed a civil suit dated 16.3.2000 (Annexure P-2) for Mandatory Injunction, seeking a direction to the defendants to deliver 267.440 m/t Slab End Cuttings, being the balance of an order dated 19.03.1998. In the alternative, the plaintiff sought recovery of the resultant loss incurred.

**17.07.2001:** The defendants had duly put in appearance in the said suit through counsel and filed detailed written statement dated 17.07.2001 before the learned trial court.

**09.03.2010:** On 9.3.2010, the defendants were proceeded against ex-parte as their counsel pleaded "no instruction" qua them.

**25.01.2011:** The suit was partly decreed vide an ex-parte judgment dated 25.1.2011, granting relief of recovery of Rs. 24,09,153/- along-with interest at the rate of 6% p.a. from 07.04.1998 till actual realization along-with cost of the suit.

**18.09.2013:** The defendants filed application under order IX rule 13 of CPC for setting aside the ex-parte order (Annexure P-3).



**10.11.2014:** The plaintiffs filed a reply to the application of the defendants for setting aside ex-parte order (Annexure P-4).

**13.07.2016:** The learned Trial Court dismissed the above-mentioned application under order 9 rule 13 CPC (Annexure P-5).

**16.08.2016:** Aggrieved by the above, the defendants preferred an appeal before the Learned First Appellate Court, Fatehgarh Sahib (Annexure P-6).

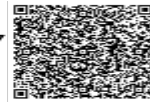
**03.05.2017:** The Learned First Appellate Court dismissed the said appeal (Annexure P-7).

**21.09.2017:** The defendants then filed the present civil revision before this Court.

**01.11.2017:** The defendants also filed a First Appeal against the ex-parte judgment dated 25.01.2011, along with an application under Section 5 of the Limitation Act, seeking condonation of delay of 2472 days.

**19.01.2018:** In the meanwhile, proceedings were going on before the learned Executing Court. Thus, in the Civil Revision Petition this Court, vide its order dated 19.01.2018, directed the petitioner to deposit the decretal amount along with interest before the learned Executing Court within a period of three weeks, and adjourned the matter to 12.02.2018.

**22.02.2018:** Vide order dated 22.2.2018, this court issued Notice to the respondent, and the execution was stayed, as the petitioner had complied with the order dated 19.01.2018 by depositing the decretal amount.

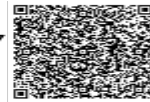


**27.07.2020:** In the meantime, the learned First Appellate Court dismissed the Civil appeal of the defendant on ground of delay of 2472 days.

**30.1.2021:** The defendant preferred the present Regular Second Appeal before this Court.

11. It is my considered view that the above said facts are self speaking and amply reflect the utterly callous, casual and cavalier attitude adopted by the petitioner in pursuing the present litigations. It has been submitted on behalf of the petitioner that the learned trial court ought to have issued notice to the petitioners before proceeding ex parte against them. However, duty also lies upon the petitioner to be vigilant towards its rights to pursue litigation diligently. The petitioner cannot totally sleep upon the matter for decades together, after entrusting the same to counsel. In this situation, it would be apposite to refer to recent judgment of the Delhi High Court in **Moddus Media Pvt. Ltd. v. M/s. Scone Exhibition Pvt. Ltd., (Delhi): Law Finder Doc Id # 887148** holding that:

*“11. The litigant owes a duty to be vigilant of his rights and is also expected to be equally vigilant about the judicial proceedings pending in the court of law against him or initiated at his instance. The litigant cannot be permitted to cast the entire blame on the Advocate. It appears that the blame is being attributed on the Advocate with a view to get the delay condoned and avoid the decree. After filing the civil suit or written statement, the litigant cannot go off to sleep and wake up from a deep slumber after*



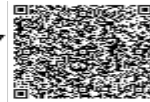
*passing a long time as if the court is storage of the suits filed by such negligent litigants. Putting the entire blame upon the advocate and trying to make it out as if they were totally unaware of the nature or significance of the proceedings is a theory put forth by the appellant/applicant/defendant company, which cannot be accepted and ought not to have been accepted."*

12. As regards the Regular Second Appeal, the learned Courts below have given cogent findings in decreeing the suit of the plaintiff. The relevant findings of learned Trial Court as contained in judgment dated 25.01.2011 are reproduced as under: -

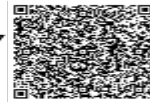
*"7. Thereafter plaintiff examined the three witnesses. Those witnesses were made available for cross examination but were not cross examined as Sh GD Bector counsel for the defendant pleaded no instructions, Defendants were proceeded exparte for this reason on 9.3.2010.*

XXX XXX XXX

*9. In its evidence PW1 Anil Kumar deposed that he is attorney of plaintiff Rajiv Gupta. Power of attorney dated 8.7.03 is Ex. P-1. He personally is well conversant with the case. He deposed on the lines of pleadings and same is not repeated for sake of brevity. He proved on record sale order photocopy dated 19.3.1998 vide which order was placed as Ex. P-2. Defendants dispatched the material on 31.3.1998. Photocopy of the letter dated 31.3.1998 addressed to CMM Bokaro is Ex. P-3 and photocopy of plaint instruction memo dated 1.5.1998 is Ex. P-4. Photocopy of fax dated 6.4.1998*

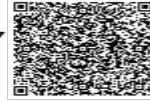


*addressed to Suresh Parsad CMM Commercial is Ex. P-5. Photocopy of letter dated 6.4.1998 addressed to CMM Commercial is Ex. P-6. Photocopy of letter dated 7.4.1998 addressed to MD & EX (MM) is Ex. P-7. Photocopy of letter dated 9.4.1998 addressed to ED (MM) is Ex. P-8. Photocopy of letter dated 15.4.1998 addressed to MD BSL delivered personally is Ex. P-9. Photocopy of fax message dated 16.4.1998 addressed to MD BSL delivered personally is Ex. P-10. Photocopy of fax message dated 24.4.1998 addressed to MD BSL is Ex. P-11. Photocopy of fax message dated 6.5.1998 addressed to ED (MM) is Ex. P-12. Photocopy of letter dated 11.5.1998 addressed to Chairman SAIL with copy to MD BSL is Ex. P-13. Photocopy fax message dated 15.7.1998 addressed to MD with copy to ED (MM) and CMM (Commercial) is Ex. P-14. Photocopy of fax message dated 20.11.1998 addressed to MD and EX (MM) is Ex. P-15. Photocopy of letter dated 22.1.1998 addressed to MD is Ex. P-16. Photocopy of of letter dated 29.5.1999 addressed to MD submitted on his visit to Mandi Gobindgarh is Ex. P-17. Photocopy of letter dated 17.6.1999 addressed to Sh. MP Goyal Deputy CMM (Commercial) New Delhi is Ex P-18. Photocopy of letter dated 6.9.99 addressed to MD Bokaro Steel Plant is Ex. P-19. Carbon copies and fax messages in original were brought in the court. He further deposed that when representatives of the defendants did not agree to make physical weighment the plaintiff approached certain respectables to have weighment in their presence of remaining 22 wagons to ascertain the factum of weighment. Those respectables include sh. Narinder Sharma, Ram Kumar, Ved Diwan, Vishal Goyal and weighment of 22 wagons was made on 8.4.1998 in presence of above said person and weighment was found*



*1050.625 M.T. confirming a shortage of 228.595 MT. At that time a weighment statement was prepared and got signed by the deponent and all the above said persons present which is Ex.P21. They also signed the weighment statement in presence of deponent. A hand written weighment statement was prepared when weighment was in progress and same is Ex. P-22. Most importantly a fact finding committee comprising of Sh JP Bhatele DGM ETB (Chairman) Sh. MM Mehewshwari CMM (PUR MIS) Member and Sh. N. Roy Chowdhury CFM (S & E Member) was formed who submitted their report to higher officers and fact finding committee has supported case of plaintiff and a photocopy of report is Ex. P-20. The court had already allowed proving the document through secondary evidence. Interrogatories were also served upon defendants but defendants submitted the wrong reply and they are liable to penal action. Letters Ex. P-5 to P-19 clearly shows that defendants just slept over the matter. Plaintiff maintains regular books of accounts and a cash balance is struck in the evening. All the transactions are duly entered in the accounts books. True copies of the same are Ex. P-23 and P-24. Original accounts books were brought at the time of leading evidence. Plaintiff is also member of Gobindgarh Chamber of Commerce. The chamber also took the matter wit the defendants and correspondence to this effect is Ex. P-25 to P-30. Officials received the letters at Delhi and had responded vide letter dated 27.8.1998 and copy of same is Ex. P-31. Plaintiff now claims Rs. 24,09,153/ and Rs. 38,66,500/- as interest from 1.4.1998 to 28.2.2007 and plaintiff further claims interest till realisation of the amount.*

10. PW2 Narinder Sharma deposed that he is conversant with the controversy. On 8.4.1998 he alongwith Anil Gupta,



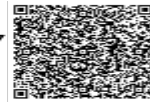
*Ram Kumar, Ved Diwan, Vishal Goyal witnessed the physical weighment of goods as officers of the defendants had weighed the material. Weighment statement is Ex. P-21 which bears his signatures.” **Emphasis supplied***

10. From the above, it is clear that the learned trial court has considered the matter in sufficient detail and has satisfied itself in respect of the claim of the plaintiff. Ld. Counsel for the petitioner has been unable to point out any error in the above said findings of fact of the ld. trial court.

11. Further, the Civil appeal has been filed before the learned first Appellate Court with a delay of 2472 days. In this regard, the findings of the learned First Appellate Court as recorded in para 13 of the judgment dated 27.7.2020 are relevant, which reads as follows: –

*“13. So far as issue No.2 is concerned there is no material evidence brought on behalf of the applicants that the delay in filling the appeal is not only intentional or deliberate. Rather the applicants have been found negligent and irresponsible in defending the suit as well as in filing the appeal also. The applicants cannot should have been vigilant in pursuing their litigation. Accordingly issue no. 2 is hereby decided in favour of respondents and against the applicants.”*

12. In this situation, reference may be made to recent judgment of the Hon’ble Supreme Court in **Civil Appeal No. 11794 of 2025** titled as **Shivamma (Dead) by LRs Vs. Karnataka Housing Board and others, 2025**



**INSC 1104 decided on 12.09.2025, Law Finder Doc Id # 2777666,**

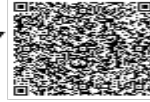
wherein it is held that: –

*“D. Limitation Act, 1963, Section 5 - State and Public Authorities - Earlier jurisprudence granted some latitude for bureaucratic delays; however, post-2012 decisions (Postmaster General v. Living Media India Ltd.) reject mechanical condonation of delay due to bureaucratic inefficiency - The State is not entitled to any special treatment and must act with reasonable diligence - Repeated laxity cannot be condoned, and officers responsible for delay may be held accountable.*

*E. Limitation Act, 1963, Section 5 - Public Interest - Condonation of delay merely to protect public interest is not a valid ground if delay is due to State negligence - Public interest is better served by enforcing limitation strictly to promote accountability and timely action.”*

13. It is, therefore my considered view that the petitioner/defendant/appellant being a state-owned, public sector undertaking, the resources at its disposal are not the personal bounty of its officers to be squandered due to their whimsical negligence and carelessness. The petitioner is therefore called upon by this Court to identify the officers responsible for the crass manner in which the present case has been pursued; and impose punitive financial liability upon them to act as a deterrent for dereliction of Duty.

14. Accordingly, present Civil Revision Petition as well as Regular Second Appeal are **dismissed**.



15. Pending application(s), if any, also stand(s) disposed of.

**28.10.2025**

Divyanshi

**(NIDHI GUPTA)  
JUDGE**

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No