
IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

[233]

Civil Revision No.1892 of 2014
Date of Decision: 05.11.2015.

Jarnail Singh

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Ms. Jaspal Kaur Gurna, Advocate,
for the petitioner.

Mr. T.N. Sarup, Addl. A.G. Punjab along with
Mr. Ashwani Kumar, Senior Asstt. of the Department.

1. *Whether Reporters of Local Newspapers may be allowed to see the judgment?*
2. *To be referred to the Reporters or not?*
3. *Whether the judgment should be reported in the Digest?*

KULDIP SINGH, J. (ORAL)

Impugned in the present revision petition is order dated 18.12.2013 passed by learned Civil Judge, Junior Division, Rajpura vide which the application of the plaintiff for restoration of the suit was dismissed.

Suffice to say that on 09.08.2012, the case was fixed for evidence of the plaintiff and was dismissed in default.

The plea of the counsel for the plaintiff is that the plaintiff had come present along with the witnesses and was ready to tender his own affidavit. It was brought to the notice of the Court that the

witnesses are present but the Additional Public Prosecutor (Government Pleader) is not present. The Court sent the Naib Court to call the Government Pleader but in the evening when nobody came forward for conducting the cross-examination upon witnesses from respondent side and when the plaintiff approached the Court, then he came to know that the suit is dismissed in default.

The perusal of the impugned order shows that the application, which was filed on 13.08.2012, was dismissed only on the ground that the petitioner had failed to disclose the name of the witnesses who are present for cross-examination and he has not given any explanation as to why he did not tender his affidavit on the said date. Therefore, the story of the petitioner was treated as fabricated.

I am of the view that the said ground is not sufficient to throw away the case of the plaintiff. The application was filed within limitation and if the Court was of the view that there was some fault on the part of the plaintiff, some costs could have been imposed. As such, the impugned order is not sustainable in the eyes of law and is hereby set aside. The suit of the plaintiff stands restored. The Lower Court is directed to proceed with the case in accordance with the law.

The present revision petition stands allowed.

November 05, 2015

Ankur

**(KULDIP SINGH)
JUDGE**