

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

CR No. 2999 of 2015 (O&M)

Date of decision : 17.9.2015

Sanjay Kumar

.. Petitioner

versus

Pawan Parkash

.. Respondent

Coram: Hon'ble Mr. Justice Rajesh Bindal

Present: Ms. Vandana Sharma, Advocate, for the petitioner.

Rajesh Bindal, J.

Challenge in the present petition is to the order dated 1.8.2014, passed by the learned Court below whereby the application filed by the petitioner 5.1.2012 for restoration of the appeal, which was dismissed in default on 26.8.2010, was dismissed.

In the case in hand, the respondent-plaintiff filed a suit for recovery of ₹ 1,03,000/- against the petitioner-defendant on 20.8.2002 on the basis of a pronote and a receipt. After notice in the suit, the petitioner-defendant appeared and filed written statement taking various pleas. However, after framing of the issues, the petitioner was proceeded against ex-parte on 6.9.2005. Thereafter, considering the ex-parte evidence led by the respondent-plaintiff, the suit was decreed on 14.5.2008. The fact that the petitioner filed appeal on 14.6.2008 just on the last date of expiry of limitation for filing appeal shows that he was well aware of the proceedings. The appeal filed on 14.6.2008 before the lower Appellate Court was dismissed in default on 26.8.2010. The application for restoration was filed on 5.1.2012. The learned Lower Appellate Court dismissed the application on 1.8.2014. Even the present petition in this Court was filed 8 months after the passing of the order by the learned Court below dismissing the application for restoration of the appeal.

Considering the aforesaid factual matrix and the conduct of the petitioner, who was well aware of pendency of the suit against him, where

he initially contested, but later on proceeded against ex-parte. After dismissal of the appeal in default on 26.8.2010 kept quite for a period of about one year and four months before he filed application for restoration of appeal. Further filing of present petition in this Court eight months after the rejection of his application for restoration, I do not find any reason to interfere with the impugned order. The present petition is dismissed.

17.9.2015
vs

(Rajesh Bindal)
Judge