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

**CR No.3274 of 2015**

**Date of decision: May 14, 2015**

Vinod Kumar

.....Petitioner

Versus

Mohkam Singh

.....Respondent

**CORAM: HON'BLE MRS. JUSTICE SABINA**

**Present:** Mr. Parinder Singh, Advocate  
for the petitioner.

**SABINA, J**

Petitioner has filed this petition challenging the order dated 04.05.2015.

I have heard learned counsel for the petitioner and have gone through the record available on the file carefully.

Respondent has filed the suit for recovery. Suit was ordered to be dismissed-in-default on 02.05.2011. The application moved by the respondent for restoration of the suit was also dismissed-in-default on 27.07.2012.

Vide the impugned order dated 04.05.2015, the suit was ordered to be restored. Trial Court while ordering the restoration of the suit, has held as under:-

*“I have carefully considered the rival contentions in the light of the material placed on record. Initially the suit of the plaintiff was dismissed in default vide order dated 2.5.2011 of the learned Predecessor Court. At that stage the case was fixed for evidence of the defendant. On the next date i.e. 3.5.2011 the*

*applicant-plaintiff filed a restoration application. When that application was fixed for arguments on 27.7.2012 before the learned Predecessor Court, again none put appearance on behalf of the applicant and the said restoration application was also dismissed in default. Now, the applicant has filed the instant application on 24.8.2012. Thus, both the applications were filed by the applicant well within the period of limitation. It is trite that where technical considerations of the matter are pitted against substantial justice, the former must give way to the later. The interest of justice also warrants that claims of the parties should be decided on merits. Thus, in view of the attending facts and circumstances of the case and the larger interest of justice, the instant application as well as the application for costs of Rs.1500/- by the applicant-plaintiff. Out of this, an amount of Rs.1000/- as costs shall be paid to the defendant and Rs.500/- shall be deposited in the District Legal Aid Cell. The suit titled as Mohkam Singh Versus Vinod Kumar is restored to its original number and position. Now to come up on 13.5.2015 for evidence of the defendant at his own responsibility.”*

The reasons given by the trial Court while restoring the suit, are sound reasons and call for no interference.

Dismissed.

**(SABINA)  
JUDGE**

**May 14, 2015**  
*m.singh*