

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

CR No. 3201 of 2012 (O&M)  
Date of decision: May 28, 2015

Kirpal Singh and others

...Petitioners

Versus

Jangir Kaur and others

...Respondents

**CORAM:- HON'BLE MR. JUSTICE K. KANNAN**

1. **Whether Reporters of local papers 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?**

Present: Mr. Ashok Singla, Advocate  
for the petitioners.

**K. KANNAN, J. (Oral)**

1. The suit which was dismissed for default for nonappearance of both the parties under Order 9 Rule 3 CPC was sought to be restored through an application filed. That application was also dismissed for default. The restoration application appears to have been filed and that application has been dismissed.

2. An order passed under Order 9 Rule 9 CPC dismissing the application is appealable under Order 43 Rule 1 (c) CPC. An application to restore an application which is also dismissed for default, by virtue of Section 141 CPC, must also be taken as appealable order. However, since the application had been filed under Section 151 CPC instead of Order 9 Rule 9, a revision has been filed. I construe the application filed under Section 151 CPC as an application filed under Order 9 Rule 9 CPC and

direct the matter to be fit for consideration only by a court of appeal under

the provision of Order 43 and not under Section 151 CPC or 227 of the Constitution. The revision is incompetent and is directed to be returned to the petitioners. The petitioners are liberty to file a regular appeal under Order 43 CPC against the dismissal of the application and if such an application is filed, the same shall be considered on merit and the issue of maintainability will not be taken up by the respondents or by the court. If there is delay in filing such an appeal, the petitioners will be at liberty to file an appropriate application for condonation of delay citing the revision filed and kept pending before this court as required to be excluded for the purpose of limitation under Section 14 of the limitation Act and the appellate court will pass appropriate order on such application in accordance with law, before taking up the appeal.

3. The revision petition is, therefore, disposed of with the above direction.

**May 28, 2015**  
prem

**(K.KANNAN)**  
**JUDGE**