

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR No.3372 of 2014 (O&M)
Date of Decision: 04.02.2015

M/s. Nahar Industrial Enterprises Ltd.

...Petitioner

Versus

M/s. Luxmi Narain Shyam Lal

...Respondent

CORAM: HON'BLE MR.JUSTICE R.P. NAGRATH

1. *Whether Reporters of the 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. Aalok Jagga, Advocate
for the petitioner.

Mr. Surender Dhull, Advocate
for the respondent.

R.P. Nagrath, J. (Oral)

The challenge in the instant revision by invoking jurisdiction of this Court under Article 227 of the Constitution of India is to the order dated 02.12.2013 (Annexure-7) passed by the learned trial Court whereby application for restoration of the application under Order IX Rule 13 of the Code of Civil Procedure dismissed in default, has been rejected.

There was a delay of about 22 months in filing the application but learned counsel for the petitioner submits that the application for condonation of delay in moving the application for restoration was also filed.

I have heard learned counsel for the parties, gone

through the impugned order and also the paper book.

The perusal of the impugned order would clearly reveal that the learned lower Court has not framed issues on the pleadings on the application nor provided any opportunity to the petitioner to lead evidence in support of his claim. Learned counsel for the petitioner submits that it was due to the death of the counsel engaged by the petitioner that application for setting aside the ex parte decree was dismissed in default. That of course was a matter to be adjudicated upon by the trial Court after the parties are afforded opportunity to prove their allegations.

In view of the aforesaid discussion and circumstances, the instant revision is allowed, setting aside the impugned order, subject to payment of ₹ 20000/- as costs which would be paid to the respondent by way of bank draft on the date which is being fixed by this Court for the parties to appear before the trial Court.

It is further directed that petitioner would be granted only two opportunities by the trial Court to lead evidence in support of the application. The trial Court would, thereafter grant opportunity to the respondent and then proceed further to decide the application expeditiously, in accordance with law.

The parties are directed to appear before the trial Court on 24.02.2015. The trial Court would decide the application within six months from 24.02.2015.

04.02.2015

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(R.P. Nagrath)
Judge