

In the High Court of Punjab and Haryana at Chandigarh

Civil Revision No. 4851 of 2013
Date of Decision: 24.3.2015.

Lalit Kumar

.....Petitioner

Versus

Mool Kanwar

.....Respondent

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Sonu Giri, Advocate
for the petitioner.

None for the respondent.

SABINA, J.

Petitioner has filed this petition under under Article 227 of Constitution of India challenging the order dated 1.6.2012 (Annexure P-2) whereby application moved by the petitioner for restoration of the suit, was dismissed.

Learned counsel for the petitioner has submitted that due to inadvertence, petitioner or his counsel had not noted down the adjourned date of hearing on 27.8.2010. Therefore, petitioner or his counsel could not appear before the Court on 24.9.2010. However, application for restoration of the suit was filed on the next day i.e. 25.9.2010.

None has appeared on behalf of the respondent.

Petitioner has filed suit for specific performance of agreement to sell dated 18.6.2004. The suit filed by the plaintiff

was dismissed in default on 24.9.2010. Petitioner moved an application on 25.9.2010 seeking restoration of the suit. Since the petitioner had approached the Trial Court on the very next day seeking restoration of the suit, the Trial Court should have restored the suit to its original number so that the *lis* between the parties could have been disposed of on merits. In fact, the case was listed for deciding the application moved by the defendant for setting aside the *ex parte* proceedings against him. In the facts and circumstances of the present case, it would be appropriate to allow this petition so that the *lis* between the parties can be disposed of on merits.

Accordingly, this petition is allowed. Impugned order dated 1.6.2012 (Annexure P-2) is set aside. Consequently, application moved by the petitioner for restoration of the suit, is allowed subject to payment of ₹ 5,000/- as costs. Costs be deposited with the District Legal Services Authority, Faridabad.

**(SABINA)
JUDGE**

March 24, 2015
Gurpreet