

239.

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

Civil Revision No.5498 of 2014

Date of decision:01.12.2015

Harvinder Singh

.... Petitioner

versus

Sachin Saini

.... Respondent

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Shakti Bhardwaj, Advocate,
for the petitioner.

Mr. Namit Khurana, Advocate,
for the respondent.

K.Kannan, J. (Oral)

1. The application for restoration of suit was dismissed even though it was filed within a period of 30 days. The court observed that the plaintiff was deliberately delaying matters, he having all allowed the suit to be dismissed for default previously and brought up the case for fresh disposal of his application on payment of costs of ₹3,000/-.

2. The counsel for the petitioner would state that the court has actually noticed that the plaintiff was actually present and the diet money for summoning and examining an official witness had also been deposited. The suit was dismissed only because the

plaintiff who had gone out of court room was called and dismissed. There was no lack of bona fides on his part. The counsel for the respondent states that the suit for enforcement of the agreement of 2006 is still kept pending by the deliberate contumacious conduct of the plaintiff.

3. Having regard to the fact that the plaintiff's presence has been noticed on the date of dismissal by the court, the plaintiff ought not to be penalized from seeking an adjudication on merits.

4. The order already passed is set aside on condition that the petitioner pays costs of ₹10,000/- to the respondent within a period of 2 weeks from the date of receipt of copy of this order. If the amount is not paid, the order already passed shall stand restored. The order is modified and the civil revision is allowed to the above extent.

(K.KANNAN)
JUDGE

01.12.2015
sanjeev