

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

CR-6302 of 2013 (O&M)

Date of Decision: July 21, 2015.

SHEELA DEVI

.....PETITIONER(s).

VERSUS

BALA DEVI & ORS

.....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE M.M.S.BEDI

Present: None for the petitioner

Mr.Sherry K.Singla, Advocate
for respondent No.1.

M.M.S.BEDI, J.(Oral)

The civil misc. application for condonation of delay in filing the revision petition is, in the interest of justice, allowed.

Vide impugned order dated 01.06.2013 the Additional District Judge, Yamuna Nagar at Jagadhri has dismissed the application for restoration of appeal filed by the petitioner.

It is pertinent to observe that plaintiff-respondent No.1 had filed a suit claiming property to be ancestral property, whereas petitioner claimed the property as self acquired property.

Since the appeal had been withdrawn by her counsel on 19.04.2001, the lower Appellate Court refused to restore the appeal. The petitioner claims that appeal had been withdrawn without her consent and

knowledge. The interest of justice demands that a fair opportunity should be given to the appellant to decide the appeal on merits, especially when the authority to the counsel to withdraw the appeal has been disputed.

Without commenting on and entering into the controversy whether the petitioner had instructed her counsel to withdraw the appeal, the impugned order dated 01.06.2013 is set aside. The application for restoration filed by petitioner is allowed subject to payment of costs of ₹5,000/-. The appeal before the lower Appellate Court is restored at its original number, to be decided on merits. The parties are directed to appear before the lower Appellate Court on 07.11.2015.

It will be open to the performa respondents to either put in appearance and contest the appeal or opt to stay away at the time of adjudication.

July 21, 2015.
TSG

(M.M.S.BEDI)
JUDGE