

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

**CR No.6521 of 2015
Date of decision: 05.10.2015**

Smt. Geeta Rani

... Petitioner

Vs.

Sanjay Kumar and another

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

1. Whether reporters of local newspapers may be allowed to see judgment?
2. To be referred to reporters or not?
3. Whether the judgment should be reported in the Digest?

Present:- Mr. Parminder Singh, Advocate, for the petitioner.

AMIT RAWAL J. (Oral)

The petitioner-plaintiff has impugned the order dated 03.08.2015 (Annexure P-4), whereby, the application dated 21.08.2012 seeking restoration of the suit, has been dismissed.

Mr. Parminder Singh, learned counsel appearing on behalf of the petitioner submits that on 28.07.2012, the District Bar Association, Karnal had gone on strike and on account of non-appearance, the suit was dismissed in default, but the application for restoration of the suit was filed within 30 days, i.e., on 21.08.2012 and the same, has erroneously been dismissed, vide impugned order.

I have heard learned counsel for the petitioner and appraised the paper book.

It is a matter of record that respondent-defendant in the aforementioned suit had already been proceeded ex parte. The application was filed within 30 days from the date of dismissal of suit in default. Rejection of the application seeking restoration of the suit vide impugned order, in my view, has rendered miscarriage of justice. The Courts are required to advance justice instead of passing the order which results into miscarriage of justice, as noticed above and the parties should not suffer for the lapse of counsel, in view of the law laid down by the Hon'ble Supreme Court in **AIR 1981 SC 1400 Rafiz and another vs. Munshi Lal and another.** The impugned order, in my view suffers from illegality and perversity, much less, has been passed without jurisdiction.

Keeping in view the aforementioned observations, the impugned order dated 03.08.2015 dismissing the application seeking restoration of the suit, is hereby set aside and the suit is restored to its original number.

Accordingly, the revision petition is allowed.

(AMIT RAWAL)
JUDGE

October 05, 2015
savita