

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

CR No.2287 of 2016(O&M)

Date of decision:31.3.2016

State Bank of Patiala

....Petitioner

VERSUS

Gurinder Pal Singh and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

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. Vikas Chatrath, Advocate and
Mr. Gurpreet Singh, Advocate for the petitioner.

REKHA MITTAL, J. (Oral)

The present petition lays challenge to orders dated 10.08.2011 (Annexure P-1) and dated 30.04.2015 (Annexure P-2) passed by the Civil Judge (Junior Division), Ludhiana, in Civil Suit No.1057/2008 titled State Bank of Patiala Vs. Gurinder Pal Singh and another filed for recovery of Rs.4,63,374.69 along with pendente lite and future interest at the rate of 10.25% per annum.

Counsel for the petitioner would submit that though there was something wanting on the part of counsel representing the petitioner – Bank and may be even officials of the Bank in filing the necessary process i.e. Registered Cover/Acknowledgment Due on certain dates fixed by the trial Court in the month of October/November, 2010 till August, 2011 but there was no contest to the application filed by the petitioner under Order 9

Rule 4 of the Code of Civil Procedure, 1908 (in short 'CPC') for restoration of the suit.

Another submission made by counsel is that in case the impugned orders are not set aside it would cause loss to public money, when on the contrary it would be a premium for the defendants/respondents without any contest in the suit. The last submission made by counsel is that keeping in mind the interest of substantial justice coupled with the fact that the Bank would lose an amount running into several lakhs, the petition may be allowed and the petitioner is ready to pay costs for delay attributable to it and would ensure that there is no default in compliance of the orders of the Court, in future.

I have heard counsel for the petitioner, perused the records particularly the orders impugned.

Perusal of the impugned orders as well as averments made in the petition makes it evident that counsel representing the petitioner- Bank before the trial Court was remiss in discharge of his obligation to comply with the directions of the Court in filing the Registered Cover/Acknowledgment Due on various dates fixed for the purpose. At the same time, it appears that on the ordinary process issued by the Court, a report was received that the house was lying locked. The petitioner-Bank filed a suit for recovery against the loanee for passing a preliminary decree for recovery of the decretal amount from the property mortgaged in favour of the Bank. The suit was instituted in the year 2006 that came to be dismissed by the trial Court in August, 2011. The application under Order 9 Rule 4 read with Section 151 CPC was filed in September, 2011,

which was decided by the trial Court in April, 2015. The entire effort of the petitioner-Bank to bring the proceedings to its logical end since 2006 would go waste in case the suit is not decided on its merits.

Keeping in view the principles of natural justice coupled with that huge public money is involved and the fact that the respondents did not contest the application for restoration, the petition is allowed and the impugned orders are set aside subject to the condition that the petitioner-Bank shall deposit an amount of Rs.20,000/- with the Legal Services Authority at Ludhiana. The petitioner-Bank shall be at liberty to recover the amount from the officers/officials concerned who failed to pursue the proceedings in right earnestness.

Disposed of accordingly.

MARCH 31, 2016
'D. Gulati'

(REKHA MITTAL)
JUDGE