

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT
CHANDIGARH

C.R. No.2406 of 2016 (O&M)

Date of Decision.04.04.2016

Gurdial Singh (deceased) through LRs

.....Petitioner

Vs.

Gurbachan Singh and another

.....Respondents

Present: Mr. Narinder Singh Dadwal, Advocate
for the petitioner.

CORAM:HON'BLE MR. JUSTICE K. KANNAN

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

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K. KANNAN J. (ORAL)

1. The revision petition is by the defendant who is aggrieved about the petition for restoration having been allowed. The contention is that the application for restoration must have been filed within 30 days from the date of order of dismissal and not from the date of alleged knowledge. This, according to him, is contrary to Article 122 of the Limitation Act. While I will hold that there is certainly a merit to the contention that application for restoration could be filed only within 30 days and if there is a delay, the delay could be explained by want of knowledge. There are authorities to the effect that the application for condonation of delay could be even implied and the Court while considering the application for restoration may also find whether there are justifications given for condoning the delay. I would find such justification is possible and therefore, will not make any intervention.

2. This is particularly so in view of the fact that it is suit for

specific performance in relation to contract of immovable property where the defendant has also admitted the execution of the agreement but he is only trying to contend that the petitioner was not ready and willing to perform his part of contract. The plaintiff had not even come at the Sub Registrar's office at the time when he was already directed to pay the balance of sale consideration and have the sale deed effected. There is surely a matter for adjudication on merits and I will find no error about the court's exercise of discretion for trial to continue.

3. The counsel appearing for the petitioner has also objection that the Court has passed the order even without imposing costs. It is a matter of discretion and if the Court found that there was a justification for restoration, the fact that it has not imposed the costs cannot be a matter for consideration in revision petition.

4. The revision petition is dismissed.

(K. KANNAN)
JUDGE

April 04, 2016
Pankaj*