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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-3272-2014

Date of decision : 01.09.2016

Karnail Singh

... Petitioner

Versus

Ranjit Kaur

... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. R.K. Arya, Advocate
for the petitioner.

Mr. Rajeev Dev Sharma, Advocate
for the respondent.

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?

AMIT RAWAL, J. (ORAL)

The petitioner is aggrieved of the order dated 20.03.2014, whereby the application for the restoration of petition filed under Section 25 of the Guardian and Wards Act, 1890 (hereinafter called 'the 1890 Act') has been dismissed being barred by law of limitation.

Mr. R.K. Arya, learned counsel appearing on behalf of the petitioner submits that the petition under Section 25 of the 1890 Act was dismissed on 19.11.2010 and the application was filed on 19.12.2010, but the Court below dismissed the same being barred by law of limitation as having moved after 30 days. The application is dated 19.12.2010, therefore, it could not be said to be beyond the period of limitation, even otherwise,

the other party can always be compensated in terms of money, thus, urges

this Court for setting aside the impugned order under challenge.

Mr. Rajeev Dev Sharma, learned counsel appearing on behalf of the respondent submits that the application was dated 19.12.2010, but the same was filed much later and it was not accompanied by an application seeking condonation of delay, rightly so, the same has been dismissed, thus, urges this Court affirming the findings under challenge.

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

Shorn of the facts as noticed above, the fact remains that no harm and prejudice would be caused, in case the petition under Section 25 of the 1890 Act is decided on merits. The other party can always be compensated in terms of money. If the application was prepared on 19.12.2010, then in my view, it was not barred by law of limitation. This aspect has not been taken care of by the Court below and the order is sketchy.

For the foregoing reasons, the impugned order under challenge is hereby set aside and the petition under Section 25 of the 1890 Act is restored to its original number subject to payment of ₹ 5,000/- as cost.

It is made clear that cost shall be condition precedent.

With the aforesaid observations, the petition stands allowed.

01.09.2016
yogesh

(AMIT RAWAL)
JUDGE

✓

Whether speaking/reasoned **Yes/ No**

✓

Whether Reportable **Yes/ No**