

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

CR No.5870 of 2016
Date of decision : 08.09.2016

Lakshmi Narang alias Lakshmi Chadha ...Petitioner

Versus

Siri Ram and others ..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. Naveen S. Bhardwaj, Advocate for the petitioner.

AMIT RAWAL, J. (Oral)

The petitioner-plaintiff is aggrieved of the impugned order, whereby the application seeking restoration of the appeal filed against the judgment and decree dated 30.10.2010 has been dismissed.

Mr. Naveen S. Bhardwaj, learned counsel appearing on behalf of petitioner submits that appeal, according to the petitioner was slated for 08.12.2013, whereas it was for 08.10.2013. On realising this fact, application for restoration of the appeal under Order 41 Rule 19 of the Code of Civil Procedure was moved on 24.12.2013 but the Courts below did not agree with the contention and dismissed the same on the ground that 08.12.2013 was Sunday and was not working day. He submits that on 08.10.2013, file had been received by transfer from one Court to another Court and the other side had put in appearance. He submits that findings

given by the appellate Court that there was no question of appearing in the erstwhile Court was meaningless.

I have heard learned counsel for the petitioner and appraised the paper book and of the view that appellate court, should not have on hyper technicality, decided the application for restoration of the appeal. No prejudice would be caused in case application had been allowed subject to the terms and conditions. Court should adjudicate the real controversy instead on pondering upon the trivial issue. Even otherwise, as per the assertion, date of the hearing of the appeal i.e. 08.12.2013 was wrongly noted by the petitioner and application has been filed on 24.12.2013 i.e. within a period of 30 days.

As per provision of Limitation Act, an application has to be filed within a period of 30 days from the date of knowledge.

I am of the prima facie view that application could not have been dismissed on this ground alone.

For the aforesaid reasons, impugned order is set aside.

Application for restoration of appeal is allowed. Appeal is ordered to be restored.

Revision petition stands allowed, subject to the cost of ₹5000/-.

08.09.2016

pawan

**(AMIT RAWAL)
JUDGE**

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No