

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

CR No.7610 of 2016(O&M)

Decided on. 11.11.2016.

Jaspal Singh and others

.....Petitioners

Versus

Harbhajan Singh

.....Respondent

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr. Gurcharan Singh, Advocate
for the petitioners.

DARSHAN SINGH, J. (Oral)

The present revision petition has been preferred against the order dated 26.09.2016 passed by the learned Civil Judge (Jr. Division), Ludhiana, whereby the application moved by the plaintiff for restoration of the suit has been allowed.

2. I have heard Mr. Gurcharan Singh, Advocate, learned counsel for the petitioners and have carefully gone through the paper book.

3. Initiating the arguments, learned counsel for the petitioners contended that the plaintiff-respondent is intentionally dealaying the disposal of the suit. Earlier also this suit was dismissed in default on two occasions and was restored. Even, the evidence has not been concluded by the plaintiff, though the suit was filed in the year 2000. He further contended that the suit was dismissed in default on 23.08.2011. The application was filed on the next date i.e. 24.08.2011, but the learned trial Court has wrongly observed that the application was filed on the same day. Thus, he contended that the impugned order is illgal and is liable to be set aside.

4. I have duly considered the aforesaid contentions.

5. It is an admitted fact that the present suit filed by respondent was dismissed in default on 23.08.2011. It is mentioned in the application by the plaintiff-respondent that he remained present outside the Court since morning, but the case was not called. When in the evening he inquired about the case from the Reader, it transpired that his suit was dismissed in default in the day. Even, as per the contentions raised by the learned counsel for the petitioners, the application for restoration of the suit has been moved on the next date itself, which shows the interest of the plaintiff in the suit. Moreover, it is the settled principle of law that the lis between the parties should be decided on merits rather, then on technicalities. Mere, this fact that the suit is pending since long is no ground to decline the request for restoration of the suit when the respondent/plaintiff satisfied the learned trial Court that there was sufficient cause for his non-appearance. For the lapse of the plaintiff-respondent, he has already been burdened with costs of Rs. 1000/-.

6. Consequently, the impugned order does not suffer from any illegality. Therefore, it does not call for any interference by this Court.

7. Thus, the present revision petition having no merits, is hereby dismissed.

November 11, 2016

S.khan

(DARSHAN SINGH)
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No