

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR No.8584 of 2015 (O&M)

Date of decision: 29.11.2016

Sunder Lal

....Petitioner

V/S

Chameli Devi

.....Respondent

CORAM: HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr. Subhash Aggarwal, Advocate for the petitioner.

Mr. Sumit Sangwan, Advocate for the respondent.

DARSHAN SINGH, J. (Oral)

The present revision petition has been preferred against the order dated 13.11.2015 vide which the application moved by the petitioner for restoration of the suit was dismissed.

Learned counsel for the petitioner contended that the said application was dismissed in default on 3.5.2012. He further contended that on that date, the petitioner could not appear in the Court as his brother was seriously ill and was lying admitted in PGI, Rohtak.

On the other hand, Mr. Sumit Sangwan, learned counsel for the respondent contended that the plaintiff is not interested in pursuing the suit. Two suits were filed by the plaintiff-petitioner. Both of them were dismissed in default which shows that actually he had no interest in the proceedings.

This revision petition has been moved against the order dated 13.11.2015 vide which the application moved by the petitioner for restoration of the suit has been dismissed in default. Even if this application is restored still the learned trial Court is to decide the application moved by the petitioner on merits as

to whether there is any sufficient cause for restoration of the suit or not. As stated at Bar by learned counsel for the petitioner, the petitioner could not appear on 3.5.2012 as his brother was seriously ill and was admitted in PGI, Rohtak, but even in that case, the counsel for the petitioner could have appeared before the Court. However, it is a settled principal of law that rights of the parties should be decided on merits than on technicalities. So, it will be appropriate if the application moved by the petitioner for restoration of the suit is restored and the same is decided on merits by the learned trial Court.

So, the present revision petition is hereby allowed subject to ₹ 10,000/- as costs. The order dated 13.11.2015 is hereby set aside. The application moved by the petitioner for restoration of the suit stands restored subject to payment of aforesaid costs to the respondent in the trial Court.

November 29, 2016

ps

**(DARSHAN SINGH)
JUDGE**

Whether speaking/reasoned : Yes/No.

Whether reportable : Yes/No.