

CR No.8651 of 2016 (O&M)

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

**CR No.8651 of 2016 (O&M)
Date of decision:22.12.2016**

Horizon Estate Private Limited

... Petitioner

Vs.

Ram Pal and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Parminder Singh, Advocate
for the petitioner.

AMIT RAWAL J. (Oral)

The petitioner-plaintiff is aggrieved of the impugned order dated 27.07.2012 (Annexure P-2), whereby, suit for possession of land by way of specific performance of contract/agreement to sell dated 20.12.2004 and declaration with a consequential relief of permanent injunction was dismissed in default and order dated 26.07.2016 (Annexure P-5), whereby, the application for restoration of suit has also been dismissed.

Mr. Parminder Singh, learned counsel appearing on behalf of the petitioner-plaintiff submits that on 27.7.2012, the District Bar Association Karnal had gone on strike and on account of non-appearance, the suit was dismissed in default but the application for restoration of suit was filed on 6.8.2012 within 30 days of the order for dismissal which was again dismissed vide order dated 26.7.2016.

I have heard learned counsel for the petitioner-plaintiff and appraised the paper book.

The application was filed within 30 days from the date of dismissal of suit in default. Rejection of the application seeking restoration of the suit vide impugned order, in my view, has rendered miscarriage of justice. The Courts are required to advance justice instead of passing the order which results into miscarriage of justice, as noticed above and the parties should not suffer for the lapse of counsel, in view of the law laid down by the Hon'ble Supreme Court in **AIR 1981 SC 1400 Rafiz and another vs. Munshi Lal and another.** The impugned order, in my view suffers from illegality and perversity, much less has been passed without jurisdiction.

Keeping in view the aforementioned observations, the impugned order dated 26.07.2016 dismissing the application seeking restoration of the suit, is hereby set aside and the suit is restored to its original number.

Accordingly, the revision petition is allowed.

(AMIT RAWAL)
JUDGE

December 22, 2016
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Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No