

CR No. 8771 of 2014

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IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

CR No. 8771 of 2014
Date of decision : May 26, 2016

Satnam Singh (deceased) through L.R Paramjit Singh

..... Petitioner

Versus

Surjeet Kaur and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. N. S. Dadwal, Advocate
for the petitioner.

Mr. Sandeep Jasuja, Advocate
for respondent No.1.

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 whereby an application seeking restoration of the suit by setting aside the order dated 16.7.2009 has been dismissed.

Learned counsel appearing on behalf of the petitioner submits that application for restoration was filed on 17.8.2009 and the court was closed from 13.8.2009 to 16.8.2009, therefore the application was not barred by law of limitation. The suit was for declaration to the effect that Gift deed dated 1.6.2001 was not valid but the court below has declined the application observing that some compromise has been arrived at between the parties, therefore none of the parties had appeared on the date fixed i.e.

on 16.7.2009 which is neither here nor there, thus, urges this Court for setting aside the impugned order.

Learned counsel appearing on behalf of the respondents submits that his client has also filed a suit for permanent injunction and the same was also dismissed for default. He further submits that none of the parties to the *lis* appeared and the suit was dismissed for default, therefore intention of the plaintiff-petitioner herein is totally mala fide, thus urges this Court for affirming the finding rendered by the courts below.

I have heard learned counsel for the parties and appraised the paper book and of the view that client should not suffer for lapse on the part of the counsel. The application was moved within the period of limitation as Court was closed from 13.8.2009 to 16.8.2009. This aspect has totally been ignored by the court below. If none of the parties had appeared it should not have been given the impression that there was a compromise. Even compromise is not pleaded nor is part of the record. In case defendant is also aggrieved of dismissal of the suit, he shall be at liberty to file application giving all the aforementioned facts and plaintiff-petitioner herein shall not oppose the application for restoration of the suit, purported to have been filed by the defendants.

For the foregoing reasons, the impugned order is set aside. The suit is restored back to its original number subject to costs of ₹5,000/-. The application for restoration is allowed.

The civil revision stands allowed.

(AMIT RAWAL)
JUDGE

May 26 , 2016
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