

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

**CWP No.26872 of 2016
Date of decision: 22.12.2016**

Chander Parkash and others

... Petitioners

Vs.

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Abhishek Yadav, Advocate
for the petitioners.

RAMESHWAR SINGH MALIK, J. (ORAL)

Feeling aggrieved against the impugned order dated 06.01.2016 (Annexure P-5), whereby the revision petition was dismissed for non-prosecution, for the 2nd time and the order dated 25.05.2016 (Annexure P-8), whereby application for restoration was declined by learned Financial Commissioner, petitioners have approached this Court, by way of present writ petition under Article 226/227 of the Constitution of India, seeking a writ in the nature of certiorari, for quashing the impugned orders.

Heard learned counsel for the petitioners.

When confronted with the repeated dismissals for want of prosecution, learned counsel for the petitioners had hardly any explanation. It is not in dispute that the case was dismissed for non-prosecution earlier as well. However, on the application moved on behalf of the petitioners, said order of dismissal for non-prosecution was recalled and ROR No.369/14-15 was

restored to its original number. The case was listed for arguments on 06.01.2016 vide order dated 04.11.2015 (Annexure P-4).

When case came up for hearing on 06.01.2016, learned counsel for the petitioners was not ready to argue the case and the case was again dismissed for non-prosecution. Application for restoration was again filed on behalf of the petitioners but this time, Financial Commissioner did not feel satisfy with the explanation given and he dismissed the application for restoration as well, vide impugned order dated 25.05.2016 (Annexure P-8).

A bare perusal of the record of the case would show that petitioners have been proceeding on a casual approach, while pursuing their case before the Financial Commissioner. After filing the revision petition, nobody shown any inclination to argue the matter on any date of hearing. In such a situation, learned Financial Commissioner was left hardly with any option except to dismiss the revision petition for want of prosecution. Thus, hardly any fault can be found with the impugned orders passed by the Financial Commissioner.

However, it is equally true that every Court must make an endeavour to decide the lis between the parties on its merits, instead of technicalities. In the present case, dispute could not be decided on merits, though primarily on account of fault of the petitioners themselves. The contention raised by learned counsel for the petitioners has been found justified, when he submits that petitioners would be ready to pay reasonable costs for restoration of their case so that it is heard and decided on merits.

In view of the above and keeping in view the interest of justice, prayer made by learned counsel for the petitioners is accepted. Impugned order dated 06.01.2016 (Annexure P-5) passed in ROR No.369/14-15 by Financial

Commissioner, dismissing the case for non-prosecution and also the impugned order dated 25.05.2016 (Annexure P-8) dismissing the application for restoration, are hereby set aside, however, subject to payment of Rs.5,000/- as costs to be paid by the petitioners, which shall be deposited by them with the Punjab and Haryana High Court Lawyers' Welfare Fund within a period of three weeks from today. The revision petition of the petitioners bearing ROR No.369/14-15 shall stand restored to its original number and it will be decided by learned Financial Commissioner on merits, in accordance with law.

Petitioners are directed to appear before learned Financial Commissioner on 18.01.2017. Notice was yet to be issued by F.C. to the opposite party.

With the abovesaid observations made and directions issued, present writ petition stands disposed of, with the costs as indicated above.

[RAMESHWAR SINGH MALIK]
JUDGE

22.12.2016
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Whether speaking/reasoned Yes/No

Whether reportable Yes/No