

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

**CR No. 1161 of 2017 (O&M)
Date of Decision: July 28, 2017**

Janak Rani

..Appellant(s)

Versus

Jarnail Singh

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Sandeep S. Majithia, Advocate
for the petitioner.

ANITA CHAUDHRY, J.

Challenge is laid to the order dated 08.11.2016, passed by Civil Judge (Jr. Division), Amritsar, vide which the suit filed by the plaintiff was dismissed under Order 9 Rule 2 CPC and Order 9 Rule 5 CPC.

The suit was filed in 2008 and the defendant was ordered to be summoned through registered cover on filing of Regd. AD and copy of plaint. The trial Court noted that the plaintiff failed to comply and the case was adjourned 16 times from 03.12.2008 up to 22.09.2011. Thereafter, no-one appeared for the plaintiff and the suit was dismissed in default on 03.10.2011. An application for restoration

was filed 5 years later and the suit was restored. The Court was overindulgent. The plaintiff was granted one opportunity to get the service effected but he failed again to give the process fee/registered AD cover etc. The trial Court gave another opportunity but still the plaintiff failed to give the copy of the plaint. A detailed order was passed by the Court on 24.10.2016 giving three days further time and it was made clear that in case the order was not complied then the suit would be dismissed. On the adjourned hearing an application was filed seeking further adjournment. The trial Court considering the backdrop dismissed the suit and did not grant any further time.

I have heard the counsel for the petitioner at length. I find no merit in the petition. The impugned order details the manner in which the trial Court has been accommodating the plaintiff adjourning the case again and again for four years only for filing the process fee/registered cover/copy of the plaint. The suit was dismissed in default in October 2011. Five years later in September 2016 the suit was restored and one last opportunity was granted for 06.10.2016 which again was not availed. The trial Court had been too lenient and had been adjourning the case. There is no place for litigants who refuse to come out of their slumber. The litigant has to be vigilant and expected to pursue his cases. The court is not a storehouse for negligent litigant. The son of the petitioner was the counsel of the petitioner. It is, therefore, more surprising how the suit progressed.

Perhaps this is the reason why the Court was accommodating the lawyer as it was his mother's case. The Court can come to the assistance of the vigilant and not of the sleepy.

The petition is dismissed.

July 28, 2017

sunil

(ANITA CHAUDHRY)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No