

CR No. 2626 of 2016 (O&M)

**HIGH COURT FOR THE STATES OF PUNJAB & HARYANA
AT CHANDIGARH**

**CR No. 2626 of 2016 (O&M)
Date of decision: 31.7.2017**

Gurpreet Kaur

...Petitioner

Versus

Ravinder Kumar Jain (deceased) through LRs

...Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Ramesh Sindhar, Advocate
for the petitioner.

Mr. Ragahv Sharma, Advocate
for the respondents.

RAMESHWAR SINGH MALIK, J. (Oral)

Present civil revision petition, at the hands of plaintiff, filed under Article 227 of the Constitution of India, is directed against the order dated 15.2.2016 (Annexure P-1) passed by the learned trial court, whereby application of the plaintiff for restoration of her suit was dismissed.

Heard learned counsel for the parties.

A bare perusal of the impugned order passed by the learned trial court will make it crystal clear that the learned trial court proceeded on a hyper-technical approach, while dismissing the application for restoration of the suit moved by the plaintiff-petitioner. Under these facts and circumstances of the case, application for restoration of the suit ought to have been allowed by the learned trial court. It is so said because passing of the impugned order has caused a manifest injustice to the petitioner-plaintiff

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and that too, for none of her fault. Having said that, this Court feels no hesitation to conclude that the learned trial court proceeded on a patently illegal approach, while passing the impugned order and the same cannot be sustained.

No doubt, going on strike by members of bar alone may not be a sufficient ground for restoration of the suit, which was dismissed in default. However, it is equally true that petitioner-plaintiff could not get reasonable and sufficient opportunity to put up her case before the court. In this regard, reliance can be placed on the judgment of Hon'ble Supreme Court in **Rafiz and another Vs. Munshilal and another, 1981 (2) SCC 788** and two judgments of this Court in **Bharat Sanchar Nigam Limited Vs. ICICI Bank Limited, 2013 (36) RCR (civil) 605** and **Jagan Nath Vs. Parshotam Dass, 2014 (56) RCR (civil) 155**.

During the course of hearing, learned counsel for the respondents-defendants could not raise any meaningful argument in support of the impugned order and rightly so, there being no argument available to the defendants-respondents in this regard. Further, a grave and manifest injustice was likely to be caused to the plaintiff by passing of the impugned order and the learned trial court could not appreciate this crucial aspect of the matter, while passing the impugned order and the same cannot be sustained.

Further, it is the settled proposition of law that rules of procedure are meant for advancing the cause of justice. Every court of law must make an endeavour to grant reasonable opportunity to both the parties to the litigation to put up their respective best cases before the court. Nobody should be forced to go home with the grievance that he was not granted due

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opportunity to put up its best case. While proceeding on this principle of law, the learned courts would be achieving twin objects; i) they would be avoiding multiplicity of litigation and ii), the learned courts would be in a much better position to do complete and substantial justice between the parties. It is equally true that while doing complete and substantial justice, technicalities must not be allowed to stand in the way of imparting justice. Since in the case in hand, the learned trial court could not appreciate the abovesaid principle of law, while passing the impugned order, the same cannot be sustained, for this reason also.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that since the impugned order has been found suffering from patent illegality or perversity, the same cannot be sustained.

Accordingly, impugned order dated 15.2.2016 (Annexure P-1) passed by the learned trial court is hereby set aside. Consequently, application for restoration of the suit filed by the plaintiff-petitioner would stand allowed. The learned trial court is directed to proceed further with the suit and decide the same at an early date, in accordance with law.

Resultantly, with the abovesaid observations made, instant revision petition stands allowed, however, with no order as to costs.

31.7.2017
AK Sharma

(RAMESHWAR SINGH MALIK)
JUDGE

Whether Speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No