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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No.2643 of 2016

Date of Decision : 19.09.2017

LEELA DEVI

....PETITIONER

VERSUS

BRIJ MOHAN

....RESPONDENT

CORAM : HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Rajeev Kumar Gupta, Advocate
for the petitioner.

Mr. Akshay Jindal, Advocate
for the respondent.

RAMESHWAR SINGH MALIK, JUDGE (ORAL)

Feeling aggrieved against the order dated 21.04.2015 (Annexure P-3), passed by the learned first Appellate Court, whereby application for condonation of delay in seeking restoration of appeal was allowed but the application for restoration was dismissed, defendant-petitioner has approached this Court by way of instant civil revision petition under Article 227 of the Constitution of India, for setting aside the impugned order.

Notice of motion was issued.

Heard learned counsel for the parties.

A bare perusal of the impugned order would show that in para 7 thereof, the learned first Appellate Court rightly allowed the

application of the petitioner for condonation of delay in filing the application for restoration of the appeal. However, in the very next para of the impugned order i.e. para No.8, the learned Additional District Judge came to an entirely different conclusion seriously contradicting himself, while dismissing the application of restoration of the appeal. It is so said because the grounds taken by the petitioner in the application for condonation of delay in filing the application for restoration of the appeal as well as in the application for restoration of the appeal were the same and have to be the same. However, the learned Additional District Judge completely misread and misunderstood true facts of the case while passing the impugned order, dismissing the application for restoration of the appeal and the impugned order cannot be sustained.

It is the settled proposition of law that rules of procedure are meant for advancing the cause of justice. Once the learned Court below has rightly condoned the delay in filing the application for restoration of appeal, then the application for restoration of appeal ought to have been allowed. Once the learned Additional District Judge was satisfied that the applicant-petitioner/defendant has shown sufficient cause for condonation of delay in filing the application for restoration of the appeal, there was hardly any reason left with the learned Court below to dismiss the application for restoration of the appeal. In fact, the impugned order has been found self-contradictory and 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 view that since the impugned order has been found suffering from patent illegality, it cannot be sustained.

Accordingly, the order dated 21.04.2015 passed by the learned Additional District Judge is hereby set aside. Application for restoration of the appeal moved by the petitioner would stand allowed and the appeal would be restored to its original number. Consequently, the learned Additional District Judge is directed to hear the parties to the appeal and decide the same, at early date but on merits.

Resultantly, with the abovesaid observations made and directions issued, the present revision petition stands allowed, however, with no order as to costs.

**(RAMESHWAR SINGH MALIK)
JUDGE**

September 19, 2017

rajneesh

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No