

CR No.2491 of 2017

280

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

CR No.2491 of 2017

Date of Decision : 29.09.2017

PRITAM KAUR

....PETITIONER

VERSUS

RANJIT SINGH AND OTHERS

....RESPONDENTS

CORAM : HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Atul Goyal, Advocate for the petitioner.
None for the respondents.

RAMESHWAR SINGH MALIK, JUDGE (ORAL)

Feeling aggrieved against the order dated 11.11.2016 (Annexure P-4), whereby suit of the plaintiff-petitioner was dismissed in default, she has approached this Court, by way of present civil revision petition, under Article 227 of the Constitution of India.

Notice of motion was issued.

As per office report dated 10.05.2017, service was complete. However, when none appeared on behalf of the respondents despite service on 12.05.2017, one more opportunity was granted to the respondents adjourning the case for today. Similar is the position today. Neither anybody has come present nor any request for pass over has been made on behalf of the respondents.

Heard learned counsel for the petitioner.

It is a matter of record that the learned District Judge allowed

CR No.2491 of 2017

the transfer application of the petitioner, seeking transfer of two civil suits titled as Pritam Kaur versus Ranjit Singh etc and Ranjit Singh etc versus Pritam Kaur from the Court of one Civil Judge (Junior Division) to another Civil Judge (Junior Division), Ludhiana, vide his order dated 04.11.2016 (Annexure P-2). Vide this order dated 04.11.2016, learned District Judge directed the parties to appear before the transferee Court on 18.11.2016. It is also a matter of record that suit filed by the petitioner was listed before the learned trial Court on 11.11.2016, however, neither anybody put appearance on behalf of the plaintiff-petitioner before the learned trial Court on 11.11.2016, nor the abovesaid order dated 04.11.2016, passed by the learned District Judge was brought to the notice of the learned trial Court. Under these peculiar circumstances, the learned trial Court dismissed the suit in default vide order dated 11.11.2016, which reads as under:-

“Case called several times since morning, but neither the plaintiff nor anyone has appeared on his behalf. Accordingly, present suit stands dismissed in default u/o IX rule 3 CPC. File be consigned to the record room, after its due compliance.”

It has also gone undisputed before this Court that the petitioner did not move any application for restoration of her suit before the same Court who passed the abovesaid order dated 11.11.2016 and that too for no good reasons. Had the petitioner moved an appropriate application, seeking restoration of the suit on the basis of abovesaid facts including the order dated 04.11.2016, passed by the learned District

CR No.2491 of 2017

Judge, the suit would have been certainly restored to its original number.

In view of the above, present revision petition is disposed of with liberty to the petitioner to move an appropriate application before the same learned trial Court who passed the abovesaid order dated 11.11.2016, pointing out the peculiar fact situation therein including the order dated 04.11.2016, passed by the learned District Judge. In case, such an application is moved by the petitioner-plaintiff, the learned trial Court who passed the abovesaid order dated 11.11.2016 shall consider and decide the application for restoration of the suit, by passing the appropriate order, in accordance with law.

Disposed of accordingly.

**(RAMESHWAR SINGH MALIK)
JUDGE**

September 29, 2017

rajneesh

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