

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

Civil Revision No.4051 of 2016 (O&M)

Date of decision: 09.10.2017

Ram Kumar (now deceased) through LRs.

.....Petitioners

Versus

Jai Bhagwan and others

.....Respondents

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Bhupinder Ghangas, Advocate,
for the petitioners.

Mr.Gaurav Tyagi, Advocate,
for the respondents.

Ritu Bahri, J.

Challenge in this petition is to the order dated 18.05.2016 passed by the Civil Judge (Junior Division), Gurgaon, whereby application filed by the plaintiff-petitioner for restoration of the civil suit has been dismissed.

Heard, counsel for the parties.

Perusal of the impugned order shows that the suit dismissed on 27.10.2012 and the plea taken by plaintiff-petitioner was that his counsel had noted a wrong date of hearing i.e. 01.11.2012, whereas the case was adjourned from 26.10.2012 to 27.10.2012. On coming to know about dismissal of the suit in default, application for restoration was made by plaintiff-petitioner on 07.11.2012. The said application has been dismissed on the ground that no sufficient cause has been given by the plaintiff to

show as to why the application was not made on 01.11.2012 itself i.e. the

date which was wrongly noted by his counsel.

Learned counsel for the petitioner has now placed on record photocopy of brief of counsel (Annexure P-2), which shows that 01.11.2012 was noted/written as the date for recording the evidence of plaintiff. Thereafter, the present application for restoration was filed on 07.11.2012.

Learned counsel for the respondents states that this evidence was not led by plaintiff-petitioner before the trial Court.

However, authenticity of this document *per se* is not in dispute. In the given circumstances of the case, to impart complete justice to the parties and also to avoid deprivation of full opportunity to the plaintiff (petitioner), this Court deems it appropriate to provide some time to the petitioner (plaintiff) to lead evidence, so that the matter can be decided on merits.

In view of the above, the impugned order dated 18.05.2016 is set aside and suit of plaintiff-petitioner is restored to its original number and stage. Trial Court is directed to proceed with recording of evidence of the plaintiff in accordance with law.

Allowed accordingly.

09.10.2017
ajp

(RITU BAHRI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No