

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

Civil Revision No.5597 of 2016 (O&M)
Date of decision: April 21, 2017

Gurbachan Singh

...Petitioner

Versus

Narinder Singh @ Mohinder Singh & others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Namit Gautam, Advocate for the petitioner.

Rajan Gupta, J.(oral)

Present revision petition is directed against the order dated 29.07.2016, passed by Additional District Judge, Kapurthala, whereby order dated 13.3.2013, passed by the trial court dismissing application for restoration of the suit, has been set-aside.

It has been urged before the court that suit filed by respondent No.1 had been repeatedly dismissed in default repeatedly and he remained very negligent and therefore, not interested in pursuing the same. Thus, the order passed by the first appellate court deserves to be set-aside.

I have heard learned counsel for the petitioner and given careful thought to the facts of the case.

It appears, respondent No.1/plaintiff filed a suit for declaration to the effect that he along with defendant No.11 is owner in possession of the land detailed in the plaint, situated in village Kala Sanghian, District Kapurthala. Sale deeds dated 24.07.1986 and 29.07.1986 executed by Ujjagar Singh son of Vir Singh, grand-father of plaintiff in favour of defendants No.1 to 9 have also been challenged, and also for permanent

injunction restraining defendants No.1 to 10 from interfering into his possession and defendant No.11 from alienating the suit land. Suit was dismissed in default on 30.07.2009 by the trial court. In fact, said suit was being pursued by the plaintiff through his Attorney, who used to come from Panchkula and on date fixed, she could not appear in court in time and suit was dismissed in default. Plaintiff filed application for restoration of the suit, which was dismissed by the trial court vide order dated 13.03.2013. Plaintiff filed appeal against the said order. Vide order dated 29.7.2016, Additional District Judge, Kapurthala allowed the appeal by setting-aside the order passed by the trial court, subject to payment of Rs.5000/- as costs. I find no infirmity with the order passed by the first appellate court. It is relevant to mention here that plaintiff is NRI and her attorney is residing at Panchkula and even her counsel had to come from Jalandhar to pursue the matter. Thus, the first appellate court has not committed any error in allowing the application for restoration of the suit. No ground to interfere in revisional jurisdiction is made out.

Dismissed.

(RAJAN GUPTA)
JUDGE

April 21, 2017
'Rajpal'

Whether speaking / reasoned

Yes / No

Whether Reportable:

Yes / No