

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

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CR No.6296 of 2016 (O & M)
Date of Decision:06.12.2017

Gurcharan Singh

...Petitioner

Versus

Nagar Council and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Ms. G.K. Mann, Advocate
for the petitioner.

ANIL KSHETARPAL, J.(Oral)

CM No.19359-CII-2016

For the reasons stated in the application, which is duly supported by an affidavit, delay of 245 days in filing the revision is condoned.

Application is allowed.

Main Case

Plaintiff-petitioner is in revision petition against the order passed by the learned trial Court refusing to restore the suit. Learned trial Court while refusing has recorded as under:-

“ Perusal of the file shows that the present suit was dismissed by this court due to non appearance of the plaintiffs/applicants and their counsel. Perusal of the file shows that the present suit was dismissed in default vide order dated 01.08.2015. As per order dated 18.07.2014 it is clear that many opportunities had been granted to the plaintiffs/applicants to complete the

plaintiffs/applicants evidence and even case was levied upon the plaintiff. On 18.07.2014 last opportunity was granted to the plaintiffs/applicants to lead their evidence, subject to payment of cost. Even, ld., counsel for the plaintiffs/applicants had suffered a statement on 18.07.2014 that he would complete his evidence and in case he fails to do so then the evidence of the plaintiffs/applicants be closed by order of the court. Thereafter, on the date fixed i.e. 01.08.2014 the plaintiffs/applicants instead of leading their evidence and payment of cost as levied vide order dated 18.07.2014, they did not appear in the court. The conduct of plaintiffs/applicants shows that their absence was intentional. They were trying to save themselves from payment of cost and even wanted to succeed in obtaining another opportunity to lead plaintiffs/applicants evidence, even though on 01.08.2014 was the last opportunity for them to lead their evidence.”

Although, learned counsel for the petitioner has vehemently argued that the petitioner may be granted one opportunity subject to payment of cost, however, taking into consideration the conduct of the petitioner, this Court does not feel that the petitioner deserves any indulgence.

It has been clearly recorded by the learned trial Court that the

last opportunity was granted subject to payment of cost and he had also suffered a statement on 18.07.2014 that he would complete his evidence, he disappeared from the proceedings.

Taking into consideration these facts, this Court does not find any good ground to interfere with the impugned order passed.

Hence, this revision petition is dismissed.

06.12.2017
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(ANIL KSHETARPAL)
JUDGE

Whether Speaking/Reasoned: Yes/No
Whether Reportable : Yes/No