

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

213

CR No.693 of 2011 (O&M)

Date of decision: 20.09.2017

Atul Kumar and another

..... Petitioners

Versus

Gardawar Singh

..... Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. H.R. Nohria, Advocate
for the petitioners.

Mr. J.S. Toor, Advocate
for the respondent.

ANIL KSHETARPAL, J. (ORAL)

Learned counsel for the respondent has objected to the maintainability of the revision petition on the ground that against the order passed by the First Appellate Court, only the appeal was maintainable to this Court. Learned counsel for the petitioners has already filed CM No.17-CII-2017 for treating the present revision petition as an appeal.

In view of the prayer made above and taking into consideration that rules of procedure should not come in the way of substantive justice, the present revision petition is treated as an appeal.

After hearing learned counsel for the parties at length, I am of the considered opinion that the appeal filed by the appellants is liable to be heard on merits.

The appellant had filed the first appeal which was dismissed for non-prosecution. It is the case of the appellants that their counsel had

met with a serious accident and, therefore, proxy counsel had been appearing and seeking the adjournments. However, the proxy counsel did not inform the appellants about the steps to be taken as per the orders passed by the Court.

The appeal was dismissed for non-prosecution on 15.03.2007. Appellants filed an application for re-admission of the appeal vide order dated 13.04.2007 i.e. after a period of 28 days. Even that application has also been dismissed by the Court.

In the interest of justice, the orders dated 15.03.2007 and 10.09.2010 are set aside and the appeal is restored to its original number.

Parties are directed to appear before the First Appellate Court on 02.11.2017.

Disposed of.

20.09.2017
Dinesh Bansal

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned	Yes / No
Whether Reportable	Yes / No