

CR No. 6962 of 2015 (O&M)

**HIGH COURT FOR THE STATES OF PUNJAB & HARYANA
AT CHANDIGARH**

CR No. 6962 of 2015 (O&M)

Date of decision: 7.7.2017

M/s Rama Rice Company and others

...Petitioners

Versus

Punjab State Civil Supplies Corporation Limited and others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. S.K. Singla, Advocate
for the petitioners.

Mr. Deepak Sabherwal, Advocate
for the respondents.

RAMESHWAR SINGH MALIK, J. (Oral)

Feeling aggrieved against the impugned order dated 7.10.2013 (Annexure P-2) passed by the learned Additional District Judge, whereby application of the petitioners for restoration of petition under Section 34 of the Arbitration and Conciliation Act, 1996 ('Act of 1996' for short), was dismissed, they have have approached this Court by way of present revision petition filed under Article 227 of the Constitution of India, for setting aside the impugned order.

Notice of motion was issued.

Heard learned counsel for the parties.

No doubt, petitioners ought to have been more vigilant in pursuing their petition under Section 34 of the Act of 1996 before the

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learned court below. However, the learned court below failed to appreciate one basic fact that the matter should have been decided on merits instead of technicalities, including dismissing the case in default. Once the application for restoration was not belated, having been filed within a period of two weeks from the date of dismissal of the case in default, the learned Additional District Judge ought to have allowed the same, particularly when no prejudice, as such, was going to be caused to the respondents.

Further, every court of law must make an endeavour to grant reasonable opportunity to both the parties to the litigation to put up their respective best cases before the court. Nobody should be forced to go home with the grievance that he was not granted due opportunity to put up its best case. By following this cardinal principle of law, the learned courts would be achieving twin objects; i) they would be avoiding multiplicity of litigation and ii), the learned courts would be in a much better position to do substantial justice between the parties.

So far as the case in hand is concerned, there was no delay on the part of the petitioners in moving the application for restoration, as noticed hereinabove. While passing the impugned order, learned court below expected from the petitioners to give minute details about their alleged negligence, which may not be possible in every given fact situation. It was specifically pointed out that due to illness of father of the learned counsel, he had to rush to Lucknow. The learned Additional District Judge ought to have accepted the said explanation to be sufficient for allowing the application for restoration. However, since the learned court below could not appreciate this material aspect of the matter, while passing the impugned order, it cannot be sustained.

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No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that since the impugned order has been found suffering from patent illegality, it cannot be sustained. Accordingly, impugned order dated 7.10.2013 (Annexure P-2) passed by the learned court below is hereby set aside.

Consequently, application of the petitioners, seeking restoration of their petition under Section 34 of the Act is allowed. Parties are directed to appear before the learned court below on 3.8.2017 and the learned Additional District Judge shall proceed further with the matter, so as to decide the same at an early date, by passing an appropriate order, in accordance with law.

Resultantly, with the abovesaid observations made and directions issued, instant revision petition stands allowed, however, with no order as to costs.

7.7.2017
AK Sharma

(RAMESHWAR SINGH MALIK)
JUDGE

Whether Speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No