

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR-6775-2017

Date of Decision:- 03.10.2017

Zile Singh

.....Petitioner

Versus

Prem Singh

.....Respondent

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Akash Vashisth, Advocate,
for the petitioner.

RITU BAHRI, J. (Oral)

Petitioner-defendant has come up in revision against the order dated 09.08.2017, passed by learned Additional District Judge, Karnal whereby application (Annexure P-6) filed by the petitioner for restoration of civil appeal, which was dismissed in default on 18.09.2015, has been dismissed.

Brief facts of the case are that Prem Singh (present respondent) has filed a suit for specific performance of contract along with consequential relief of symbolic possession and permanent injunction. The suit was decreed by the trial Court, vide judgment dated 03.04.2014. The appeal filed by the present petitioner was dismissed in

default on 18.09.2015 and the application for restoration of appeal was filed on 09.05.2016 i.e. after a delay of 7½ months.

Consequently, after taking into consideration the facts and all the contentions pertaining to appreciation of evidence, learned Additional District Judge, Karnal, has dismissed the application for restoration filed by the petitioner, by virtue of order dated 09.08.2017, which in substance is as under: -

“He even delayed the proceedings before learned Trial Court. In execution proceedings he was duly served, he did not appear and was proceeded against exparte. In the present appeal he once appeared, but did not later on appear before the Court for seven & half months. There is not explanation on his part why he did not appear before this Court. He has not made any complaint against his counsel whey they did not appear before the Court or why he did not inform him. Number of proceedings/dates were fixed before this Court, but neither applicant nor his counsel bothered. I am very much satisfied that facts of present appeal/application are quite crucial and distinguishable. Decree has been passed by learned Trial Court against applicant-defendant and in favour of his real brother on the basis of agreement. Now defendant is making his best efforts in delaying the operation/execution of that decree. The restoration application filed before Court bears no substance. There is no reason on the part of applicant nor he has disclosed therein whey he remained in dole-drum for seven months. Since conduct of applicant-appellant-defendant is quite malafide, therefore, he is not entitled for the prayed relief.”

After hearing the learned counsel for the petitioner and after perusing the above-said impugned order, this Court is of the considered view that learned Additional District Judge, Karnal, has rightly passed the impugned order after appreciating the evidence in the correct prospective. Such order, containing valid reasons, cannot possibly be interfered with by this Court, in exercise of limited revisional jurisdiction of this Court,

unless and until, the same is illegal, perverse and without jurisdiction. Since, no such patent illegality or legal infirmity has been pointed out by the learned counsel for the petitioner, therefore, the instant revision petition is hereby dismissed.

October, 03, 2017
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(RITU BAHRI)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No