

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

CR No. 8097 of 2015

Date of Decision: 13.02.2017

*Inder Singh*

.....Appellant.

**Vs.**

*Inderjit Kaur and others*

.....Respondents

**CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK**

Present: Mr.Sandeep K. Sharma, Advocate  
for the appellant.

Mr.Akash Singla, Advocate for respondents  
No. 2 and 3.

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**RAMESHWAR SINGH MALIK J. (ORAL)**

Feeling aggrieved against the impugned order dated 18.08.2015 (Annexure P-11) passed by learned Civil Judge(Jr. Div.), Patiala, whereby application for restoration of the suit as well as application for condonation of delay in filing the application for restoration were dismissed, petitioner has approached this Court, by way of instant revision petition under Article 227 of the Constitution of India, for setting aside the impugned orders.

A bare reading of the impugned order shows that the learned trial Court referred to the long period consumed by the plaintiff-petitioner, in producing his evidence, before his suit was dismissed in default. Consuming the alleged long time by the plaintiff-petitioner in producing his evidence, should not have been made a ground for dismissal of the applications for restoration of the suit as well as application for condonation of delay of 75 days, in filing the application for restoration. Since learned trial Court fell in serious error of law, while passing the impugned order on

irrelevant grounds, the impugned order cannot be sustained.

It is the settled proposition of law that every Court of law must make an endeavour to decide the lis between the parties on its merits instead of technicalities, including the delay etc., so as to do a complete and substantial justice between the parties. The lis has to be decided on merits, but only after granting reasonable opportunities to both the parties. So far as the delay of 75 days in filing the application for restoration is concerned, it was not an inordinate long delay and ought to have been condoned by the learned trial Court.

Had the application for restoration and condonation of delay moved by the plaintiff-petitioner been allowed by the learned trial Court, the suit itself would have been decided by now and that too without causing any kind of prejudice to the defendants-respondents. Having said that, this Court feels no hesitation to conclude that the learned trial Court proceeded on a wholly misconceived approach, while passing the impugned order and the same cannot be upheld, for this reason also.

Rules of procedure are meant for advancing the cause of justice. However, learned trial Court failed to appreciate this cardinal principle of law, while passing the impugned order, proceeding on technicalities alone. In this view of the matter, it can be safely concluded that since learned trial Court committed a serious error of law, while passing the impugned order, the same cannot be sustained, for this reason as well.

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, the impugned order is hereby set aside. The revision petition deserves to be accepted. Delay of 75 days in filing the application for restoration would stand condoned. The application for restoration filed by the plaintiff is allowed. Consequently, the suit would stand restored to its original number.

Learned trial Court is directed to proceed further to decide the suit expeditiously, however, 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.

(RAMESHWAR SINGH MALIK)  
JUDGE

**13.02.2017**  
ANJAL

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| <b><i>Whether speaking/reasoned?</i></b> | <b><i>Yes/No</i></b> |
| <b><i>Whether reportable?</i></b>        | <b><i>Yes/No</i></b> |