

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

**CR No.8160 of 2017 (O&M)
Date of decision: 22.11.2017**

Canara Bank

...Petitioner

Versus

Sh. Vijay Kumar Babuta (since deceased) through LRs.

...Respondents

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Aditya Dassaur, Advocate,
for the petitioner.

Ritu Bahri, J.

CM No.25028-CII of 2017

In view of the averments mentioned in the application, same is allowed and delay of 50 days in re-filing of the appeal is condoned.

CR No.8160 of 2017

Challenge in this petition is to the order dated 19.05.2017 (Annexure P-3) passed by the Civil Judge (Junior Division), Ludhiana, whereby application filed by plaintiff-petitioner under Order 9 Rule 2 CPC for restoration of civil suit No.38124/2013, titled as Canara Bank vs. Vijay Kumar, has been dismissed.

Perusal of the impugned order dated 19.05.2017 (Annexure P-3) shows that suit filed by plaintiff-petitioner was dismissed on 06.02.2014. Before the trial Court, learned counsel for plaintiff-petitioner had placed on record the postal receipts, which were issued for service of defendant through RC. However, the summons sent through RC were not received

back. Thereafter, plaintiff-bank was directed to file fresh RC in order to effect service upon the defendant, but it had failed to do so. In this backdrop, the suit was dismissed under Order 9 Rule 2 CPC.

Present suit has been filed by the plaintiff-bank for recovery of Rs.1,92,493/-. In the given circumstances of the case, to impart complete justice to the parties and also to avoid deprivation of full opportunity to the petitioner, this Court deems it appropriate to provide some time to the petitioner (plaintiff) to get the service upon defendant effected. Moreover, it would be better to decide the suit on merits.

In view of the above, impugned order dated 19.05.2017 is set aside, the suit is restored to its original number and trial Court is directed to provide one effective opportunity to plaintiff-petitioner to get the service upon defendant-respondent(s) effected by filing PF/RC etc., subject to costs of ₹5,000/- to be deposited with the District Legal Service Authority, Ludhiana.

Allowed accordingly.

22.11.2017
ajp

(RITU BAHRI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No