

288-A

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No.8438 of 2014 (O&M)
Date of Decision : 25.09.2017

PUSHPA

....PETITIONER

VERSUS

MOHAN LAL AND OTHERS

....RESPONDENTS

CORAM : HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. J.S. Dahiya, Advocate for the petitioner.
Mr. Vikas Lochab, Advocate for the respondents.

RAMESHWAR SINGH MALIK, JUDGE (ORAL)

Feeling aggrieved against the order dated 08.05.2014 (Annexure P-4) and the order dated 11.11.2014 (Annexure P-7), whereby suit of the plaintiffs-respondents, which was dismissed in default on 13.02.2013, was restored to its original number by allowing their application for restoring the suit, defendant No.2 has approached this Court, by way of instant civil revision petition under Article 227 of the Constitution of India, for setting aside the impugned orders.

Notice of motion was issued.

Heard learned counsel for the parties.

Placing reliance on a judgment of the Hon'ble Supreme Court in 'Dipak Chandra Ruhidas versus Chandan Kuma Sarkar', AIR 2003 SC 3701, learned counsel for the petitioner submits that since the application for restoration was barred by limitation, the same ought to have been dismissed by the learned trial Court. He prays for setting aside the

impugned orders by allowing the present petition.

On the other hand, learned counsel for the respondents-plaintiffs submits that the learned trial Court committed no error of law, while passing the impugned orders and the same deserves to be upheld. He prays for dismissal of this revision petition.

Having heard learned counsel for the parties, after careful perusal of the record of the case and giving thoughtful consideration to the contentions raised, this Court is of the considered opinion that since the rules of procedure are meant for advancing the cause of justice, no fault can be found with the impugned orders passed by the learned Courts below and the same deserve to be upheld.

Minor technicalities apart, the fact remains that suit of the plaintiff was dismissed in default vide order dated 13.02.2013. Application for restoration was initially filed within a period of two weeks i.e. on 26.02.2013 under *bona fide* wrong impression because the learned counsel for the plaintiffs was not duly informed that Shri Ravinder, plaintiff No.1 had already expired. Had the learned counsel for the plaintiffs been duly informed in this regard, there would have been no difficulty for him to move the application for restoration in the name of plaintiffs No.2 and 3. This was the reason that learned counsel for the plaintiffs withdrew the said application which was rightly permitted to be withdrawn by the learned trial Court vide order dated 08.05.2014 (Annexure P-4). Defendant No.2 did not challenge this order.

Thereafter, in compliance of the abovesaid order dated 08.05.2014 (Annexure P-4) when fresh application for restoration of the suit was filed by the plaintiffs, it was opposed by the defendants. Under these

peculiar facts and circumstances of the case, this Court is of the opinion that the learned trial Court was well within its jurisdiction to pass the impugned order, rightly exercising its discretion in favour of the plaintiffs-applicants for allowing their application for restoration and the impugned order deserves to be upheld for this reason only.

So far as the judgment of Hon'ble Supreme Court in 'Dipak Chandra Ruhidas's case (supra)', relied upon by learned counsel for the petitioner, is concerned there is no dispute about the law laid down and observations made therein. However, on a close perusal of the cited judgment, it has not been found to be of any help to the petitioner, being distinguishable on facts. It is the settled principle of law that peculiar facts of each case are to be examined, considered and appreciated first, before applying any codified or judgemade law thereto. Sometimes, difference of even one circumstance or additional fact can make the world of difference, as held by the Hon'ble Supreme Court in Padmausundara Rao and another versus State of Tamil Nadu and others, 2002(3) SCC 533, Union of India versus Amrit Lal Manchanda and others, 2004 (3) SCC 75, State of Orissa versus Md. Illiyas, 2006(1) SCC 275 and State of Rajasthan versus Ganeshi Lal, 2008(2) SCC 533.

No other argument was raised.

During the course of hearing, learned counsel for the petitioner could not point out any patent illegality or perversity in the impugned order, which may warrant interference at the hands of this Court, while exercising its revisional jurisdiction under Article 227 of the Constitution of India. In fact, the impugned order has been found duly supported by sound reasons and the same deserves to be upheld, for this

reason also.

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 present revision petition is misconceived, bereft of merit and without any substance. Thus, it must fail. No case for interference has been made out.

Resultantly, with the abovesaid observations made, instant revision petition stands dismissed, however, with no order as to costs.

(RAMESHWAR SINGH MALIK)
JUDGE

September 25, 2017

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Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No