

Civil Revision No.1191 of 2018

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

Civil Revision No.1191 of 2018
Date of decision: 21.02.2018

Smt. Noor Nisha

.....Petitioner

versus

Smt. Ishwari Devi and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: - Mr. Akshay Kumar Jindal, Advocate, for the petitioner.

RAMENDRA JAIN, J. (ORAL)

Through this revision petition under Article 227 of the Constitution of India prayer has been made for setting aside order dated 05.12.2017 (Annexure P-5) of the First Appellate Court affirming the order dated 10.12.2015 (Annexure P-4) of the trial Court, whereby petitioner's application for restoration of the suit dismissed in default on 09.10.2009, was dismissed.

In nutshell, petitioner filed a suit for specific performance of contract in the year 2004 on the basis of agreement to sell dated 29.03.2000. The said suit of the petitioner was dismissed for want of prosecution. Thereafter, the petitioner moved an application for restoration of her suit, which was dismissed vide order dated 10.12.2015 (Annexure P-4) by the trial Court.

Being aggrieved, petitioner approached First Appellate Court, but remained unsuccessful as her appeal too was dismissed vide order dated 05.12.2017.

Learned counsel for the petitioner contends that petitioner should not be made to suffer on account of lapse of her counsel, as her suit was

Civil Revision No.1191 of 2018

dismissed for want of prosecution on account of non-appearance of her counsel. Both the Courts below failed to appreciate that the application for restoration of the suit was filed by the petitioner within limitation, therefore, the trial Court ought to have restored the suit of the petitioner.

Having given considerable thought to the submissions made by learned counsel for the petitioner, I find the instant petition completely devoid of any merit for the reasons to follow.

There is no provision of law that after engaging a counsel litigant/party has not to pursue his/her case in a diligent manner. In the instant case, the petitioner has tried to put entire blame on her counsel against whom she had not taken any action for causing loss to her by getting dismissed her suit for specific performance.

The above conduct of the petitioner shows that her blame upon her counsel is based on falsehood.

The First Appellate Court has rightly observed that there is no explanation from the petitioner's side as to why she did not appear in person before the trial Court on the date fixed or why her counsel did not send his clerk to pursue the suit of the petitioner. Reason for absence of the petitioner or her counsel was not genuine or satisfactory.

I have gone through the impugned orders of both the Courts below and find no illegality or perversity in the same.

Resultantly, this revision being devoid of any merit, is hereby dismissed.

(Ramendra Jain)
Judge

February 21, 2018
R.S.

Whether speaking/reasoned Yes/No

Whether reportable Yes/No.