

In the High Court of Punjab and Haryana at Chandigarh

.....

Civil Misc. No.3764-CII of 2018

and

Civil Revision No.1211 of 2018

.....

Date of decision:24.5.2018

Sanjeev Chaudhary

.....Petitioner

v.

Rakam Singh

.....Respondent

....

Coram: Hon'ble Mr. Justice Inderjit Singh

.....

Present: Mr. Rajesh Kumar Moudgil, Advocate for the petitioner.

.....

Inderjit Singh, J.

Civil Misc. No.3764-CII of 2018:

For the reasons mentioned in the civil miscellaneous application, the delay of 44 days in re-filing the civil revision petition is condoned.

The civil miscellaneous application is allowed accordingly.

Civil Revision No.1211 of 2018:

This civil revision petition has been filed under Article 227 of the Constitution of India for setting aside the impugned order dated 13.9.2017 (Annexure-P.1) passed by the learned Civil Judge (Junior Division), Kurukshetra, vide which the application filed under Order XXXVII Rule 4 CPC for setting aside the judgment and decree dated 22.12.2014 and for grant of leave to defend the case has been dismissed.

I have heard learned counsel for the petitioner and have gone through the record.

From the record, I find that Rakam Singh-plaintiff filed suit against Sanjeev Chaudhary-defendant for recovery of ₹20 Lakhs under Order XXXVII CPC. The present petitioner filed an application under Order XXXVII Rule 4 CPC for setting aside the judgment and decree dated 22.12.2014 passed by the learned Civil Judge (Senior Division), Kurukshetra, and asked for the relief to dismiss the suit. The application has been dismissed by the learned Civil Judge (Senior Division), Kurukshetra, vide impugned order dated 13.9.2017.

I have gone through the impugned order. As per the record, the present petitioner was served on 17.11.2014. In the suit filed under Section XXXVII CPC, defendant has to file an application for seeking leave to defend suit within 10 days which is mandatory. The case of the petitioner is that he was arrested in cheque bouncing case on 17.11.2014 and he remained in custody till 1.12.2014. The date in that suit was fixed as 8.12.2014, but the present petitioner did not appear in the suit on that day or earlier in order to avail any leave to defend the suit. As he did not appear after his due personal service, therefore, the Court below passed the judgment and decree on 22.12.2014. Now this application has been filed on 5.2.2015 after about 2½ months of the service in the suit. No explanation has been given by him as to why he did not appear from 1.12.2014 when he was released on bail in that criminal case before the Court below within a reasonable time. The explanation given is that as he was arrested on 17.11.2014, as he was in custody, he was mentally disturbed and he forgot

the date and also misplaced the notice. This is not a satisfactory explanation.

Keeping in view the facts and circumstances of the present case and the perusal of the impugned order dated 13.9.2017, I find that the application has been rightly dismissed by the learned Civil Judge (Senior Division), Kurukshetra,. No illegality has been committed by the lower Court. The order is as per law and does not require any interference from this Court and the same is upheld.

Finding no merit in this civil revision petition, the same is accordingly dismissed.

May 24, 2018.

(Inderjit Singh)
Judge

hsp

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