

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

**Sr. No.112**

**CR-2098-2018**

**Date of decision: 02.08.2018**

Darshan Lal

....Petitioner

versus

Jagmit Singh

....Respondent

**CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL**

Present: Ms. Harpreet Kaur, Advocate for  
Mr. Sham Lal Bhalla, Advocate  
for the petitioner.

Ms. Gurnam Kaur Turka, Advocate and  
Mr. G.S. Ahluwalia, Advocate  
for the respondent.

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**DEEPAK SIBAL, J. (Oral)**

Through the present petition challenge is made to the order dated 04.07.2017 passed by the Civil Judge (Junior Division), Rajpura (for short – 'the Trial Court') dismissing the petitioner's application filed by him for recalling of order dated 02.02.2017 through which his application for restoration of his suit had been dismissed.

The facts in brief which are required to be noticed for adjudicating upon the present petition are that the petitioner filed a suit seeking therein permanent injunction for restraining the respondent/defendant from interfering in the peaceful possession of the petitioner/plaintiff from the suit property as described in the head note of the plaint. The suit was dismissed for non-prosecution on 09.11.2015. On an application filed by the petitioner, through order dated 10.01.2017, subject to payment of ₹ 2500/- as costs, the suit was ordered to be restored. For payment of costs, the matter was adjourned for 02.02.2017 on which

date since the petitioner failed to deposit the imposed costs, the application of the petitioner seeking restoration of his suit was dismissed.

Learned counsel for the petitioner submits that the awarded costs could not be deposited by the petitioner as he was ill and submits that on any date to be appointed by this Court, such costs would be deposited, on deposit of which, his suit be restored.

Learned counsel for the respondent very fairly submits that the suit of the petitioner may be restored, however, that should be subject to payment of heavy costs.

After hearing learned counsel for the parties, with a view that the suit filed by the petitioner be adjudicated on merits, this Court is of the opinion that the ends of justice would be served by setting aside the impugned orders dated 02.02.2017 and 04.07.2017 and directing restoration of the petitioner's suit. However, the same is subject to payment of ₹ 5,000/- as costs which are in addition to the costs of ₹ 2500/- awarded by the Trial Court.

The petition is allowed in the above terms.

**(DEEPAK SIBAL)**  
**JUDGE**

**August 02, 2018**  
*Jyoti 1*

Whether speaking/reasoned  
Whether reportable

Yes/No  
Yes/No