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

**CR No.3043 of 2016(O&M)
Date of Decision: 16.05.2018**

Jatinder Kumar

.....Petitioner

Vs

Harjit Singh alias Ajit Singh and others

....Respondents

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. Arun Abrol, Advocate
for the petitioner.

Mr. Akhil Agnihotri, Advocate
for respondent No. 1.

Mr. Satvir Singh, Advocate
for Mr. A.S.Manaise, Advocate
for respondent No. 3.

RAJ MOHAN SINGH, J. (Oral)

The petitioner has assailed the order dated 16.01.2016 passed by Additional District Judge, Gurdaspur whereby the appeal filed against the order dated 25.05.2015 passed by Civil Judge, (SD), Gurdaspur was dismissed.

In a suit for possession by way of specific performance to agreement to sell dated 20.03.1994, the petitioner was proceeded against ex-parte and ex-parte judgment and decree was passed on 06.09.2002. An application under Order 9 Rule 13 CPC was filed on 04.10.2002 for setting aside the ex-parte judgment and decree dated 06.09.2002.

When the aforesaid application reached at a mature stage i.e. for leading evidence, after framing of issues on 09.02.2005, the petitioner did not appear. No evidence was led. Case was called time and again. The application was dismissed in default under Order 9 Rule 8 CPC vide order dated 18.08.2006. Another application was filed for restoration of the application which was dismissed in default on 18.08.2006. This application was also dismissed in default under Order 9 Rule 2 CPC for want of registered cover, copies of the applications for service of the respondents. Still further one more application was filed on 13.08.2009 for restoration of the earlier applications. The said application was also dismissed in default on 04.05.2011. Reason for dismissal of the application in default was stated to be wrong recording of date as 04.06.2011 in place of 04.05.2011. Again an application for restoration was filed on 11.06.2011 and the same was dismissed vide impugned order dated 25.05.2015 by the Trial Court. The appeal against the said order was also dismissed by the lower Appellate Court.

Even with the aforesaid facts on record, learned counsel for the petitioner seeks to address arguments on merits on the ground that huge property is involved in the suit and the order dated 04.05.2011 came to be passed only on the basis of wrong recording of date as 04.06.2011 instead of 04.05.2011.

The conduct of the petitioner is not such which can be excused on any submission made by the learned counsel for the petitioner. Persistent default in appearing in the Court and not filing the requisite process fee and copies, resulted in passing of orders dated 12.08.2009 and 04.05.2011

Looking to the aforesaid of the facts of the case, I am not inclined to grant indulgence in favour of the petitioner who was never vigilant in respect to protecting his legal rights.

Dismissed accordingly.

16th May, 2018
shabha

(RAJ MOHAN SINGH)
JUDGE

<i>Whether speaking/reasoned</i>	Yes
<i>Whether reportable</i>	Yes/No