

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

**CR No.2676 of 2018 (O&M)
Date of decision : April 26, 2018**

Pinki

..... Petitioner

Versus

Hari Singh (deceased) through LRs and others Respondent

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Anjum Ahmed, Advocate for the appellant.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

KULDIP SINGH J. (ORAL)

Impugned in the present revision petition is the order dated 08.12.2017 passed by the learned Addl. Civil Judge (Sr. Divn.), Sonipat, vide which an application for restoration of the suit was dismissed.

Heard.

It comes out that the plaintiff had filed a suit before the trial Court. The trial Court on 10.03.2011 ordered the plaintiff to affix the Court fee on the sale amount of ₹2,16,09,848/-. The present petitioner was plaintiff before in the said case. The other plaintiffs compromised the dispute with the defendant. The plaintiff-petitioner was given time till 25.03.2011 to affix the Court fee but on the said date, the same was not affixed and further time was extended up to 04.05.2011. On the said date, Court fee was not affixed, rather counsel for the plaintiff-petitioner became absent and the suit was dismissed in default. Nearly little less than three years later, an application was instituted on 27.03.2014 for restoration of the suit.

The trial Court after framing the issues and recording the evidence and considered the plea of the plaintiff that she was unwell. It was found that as per the medical certificate, she was unwell only from 03.05.2011 to 06.05.2011 and came to the conclusion that the suit was got intentionally dismissed in default to avoid the payment of the Court fee.

I am of the view that there is no illegality or infirmity in the findings recorded by the trial Court. In fact, the Court fee on sale amount of huge amount of more than ₹2,00,00,000/- was to be paid. The Court extended the time. On the extended time, the plaintiff was not able to pay the Court fee. His personal presence was not required to make good the Court fee. No application for extension of time was filed and the plaintiff became absent, which is apparently intentional. For next little less than three years, the plaintiff remained silent and suddenly on 27.03.2014, he instituted an application for restoration of the suit.

I agree with the reasoning given by the trial Court that there is no sufficient cause to restore the suit. As such, the present revision petition is dismissed.

Since, the main petition has been dismissed, therefore, the pending application, if any also stands disposed of.

(KULDIP SINGH)
JUDGE

April 26, 2018

sarita

Whether speaking / reasoned Yes

Whether Reportable: No