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

CR-3227-2017

Date of decision : 20.03.2018

Balbir Singh

... Petitioner(s)

Versus

Partap Singh and another

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. J.P. Sharma, Advocate
for the petitioner.

None for the respondents.

AMIT RAWAL, J. (ORAL)

The petitioner-defendant has challenged the impugned order dated 12.04.2017 (Annexure P-1), whereby the application submitted by the respondents-plaintiffs for restoration of the suit dismissed in default vide order dated 10.01.2013 (Annexure P-3), has been allowed.

Mr. J.P. Sharma, learned counsel appearing on behalf of the petitioner-defendant submitted that application for restoration was not supported by any affidavit, which is mandatory requirement of law to be complied with. The reasons given in the application were most vague and evasive. The trial Court did not follow the procedure and law while passing the impugned order. The plaintiff being a retired public servant knew all

trapping of litigation. It was his duty to appear in the case, much less, follow the suit and should not have blamed the counsel for not appearing on the date fixed.

Notice of this revision petition had been issued, but despite service, there is no representation on behalf of the respondents. This fact has been noticed in the order dated 20.11.2017. Accordingly, I proceed to decide the revision petition on merits.

I have heard the learned counsel for the petitioner-defendant and appraised the paper book.

The suit, aforementioned, was dismissed in default on 10.01.2013, whereas the application for restoration of the suit was moved on 19.09.2014. The only point to be considered by this Court is whether application was wholly belated or not, but the fact of the matter is that, as mentioned in the application, the absence of the plaintiff was not intentional as he was stated to be mentally disturbed and undergoing treatment and therefore, neither his counsel nor he could appear to represent his case. Though the explanation given in the application does not appear to be plausible as there was delay of one year and eight months, but the fact of the matter is that for the purpose of adjudication of *lis*, particularly when no one had appeared on behalf of the plaintiff, the trial Court should have issued the notice to the parties to make the arrangement. The application has rightly been allowed by imposing the cost, which would, in my view, be best punishment given to the plaintiff.

For the foregoing reason, I do not find any illegality and perversity in the impugned order, under challenge, much less, no ground is

made out for interference, accordingly, the present revision petition stands dismissed.

20.03.2018
Yogesh Sharma

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned **Yes/ No**

Whether Reportable **Yes/ No**