

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

**CR No.3649 of 2018 (O&M)
Date of decision : May 29, 2018**

Jagtar Singh and others

..... Petitioners

Versus

Kaur Singh and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Mukesh Garg, Advocate for the petitioners.

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 09.05.2018 (Annexure P-4) passed by learned Civil Judge (Jr. Divn.), Patiala, vide which while setting aside the order of dismissal of the suit in default dated 02.12.2015, the suit has been restored.

Heard.

Learned counsel for the petitioners contends that the suit was dismissed in default on 02.12.2015 and the application for restoring the suit was filed on 01.06.2017 after the expiry of the limitation period. Therefore, the suit cannot be restored.

I have gone through the impugned order, which shows that when the suit was dismissed in default, three witnesses of the plaintiff were already examined. In these circumstances, the suit could not be dismissed in default and the Court was required to proceed as per the provisions of Order XVII, Rule 3 CPC, 1908, in place of dismissing the suit in default. Since the order of dismissing the suit in default at the stage of the evidence of the

plaintiff was illegal, therefore, despite limitation, it could be set aside. As such, there is no illegality or infirmity in the impugned order.

As such, the present revision petition is dismissed.

(KULDIP SINGH)
JUDGE

May 29, 2018

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Whether speaking / reasoned	Yes
Whether Reportable:	No