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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-385-2017

Date of decision : 25.04.2018

Jasbir Singh

... Petitioner(s)

Versus

Notified Area Committee Cheema

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. K.S. Chahal, Advocate
for the petitioner.

Mr. G.S. Ghuman, Advocate
for the respondent.

AMIT RAWAL, J. (ORAL)

The petitioner is aggrieved of the impugned order dated 19.05.2015 (Annexure P-3), whereby the application under Order 21 Rule 32 CPC has been dismissed in default as well as the order dated 22.07.2016 (Annexure P-6), vide which, the restoration application has also been dismissed.

Learned counsel for the petitioner submitted that the petitioner had filed an application under Order 21 Rule 32 CPC seeking execution of the judgment and decree dated 13.06.1997, which was dismissed in default vide order dated 19.05.2015. An application for restoration of the same was submitted on 31.10.2015, but it was subjected to the contest by framing the issues and the same vide order dated 22.07.2016 had been dismissed. The

Court below should not have been wasted the time for adjudication of the application for restoration instead of laid focus on the merit of the matter. The absence of the counsel was neither intentional nor wilful, but for the reasons explained in the application.

Learned counsel for the respondent submitted that the execution application under Order 21 Rule 32 CPC was not maintainable. It was a delaying tactics and since they were not sure about its succession, did not intentionally appear and rightly so, the execution application as well as the restoration application have been dismissed. There is no illegality and perversity in the impugned orders, thus, urges this Court for dismissal of the present revisions petition.

I have heard the learned counsel for the parties, appraised the paper book and of the view that there is merit and force in the submissions of Mr. Chahal, for, the Court below should not have delayed the adjudication of the execution application under Order 21 Rule 32 CPC. At the moment, the application for restoration was moved, the other party should not have also objected to rather the Court below should have called upon the party to address the issue on main matter. The application filed in the month of March 2013, came to be decided after two years i.e. 19.05.2015 (Annexure P-3). However, in order to advance justice and prevent miscarriage of justice, I deem it appropriate to set aside the impugned orders, under challenge, subject to the payment of ₹5,000/-, which shall be condition precedent.

The application for restoration is allowed and the execution application under Order 21 Rule 32 CPC seeking execution of the judgment

and decree dated 13.06.1997 is restored to its original number.

Resultantly, the present revision petition stands allowed.

25.04.2018
Yogesh Sharma

(AMIT RAWAL)
JUDGE

	✓
Whether speaking/reasoned	Yes/ No
	✓
Whether Reportable	Yes/ No