

CR No.4070 of 2014 (O&M)

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

CR No.4070 of 2014 (O&M)

Date of decision:09.05.2018

Hari Chand

... Petitioner

Vs.

Ram Parsad and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Subhash Rana, Advocate, for
Mr. S.K.Panwar, Advocate
for the petitioner.

Mr. Abhishek Sharma, Advocate
for respondents No.2 and 9.

Mr. Rajbir Singh, AAG, Haryana.

AMIT RAWAL J. (Oral)

Learned counsel for the petitioner submits that petitioner-plaintiff instituted the suit for declaration with consequential relief of permanent injunction to the effect that plaintiff having acquired occupancy rights in respect of land measuring 1 kanal 11 marlas situated at Mauja Tigaon, Tehsil and District Faridabad under Sections 5, 6 and 8 of Punjab Tenancy Act. The suit was dismissed in default, vide order dated 16.11.2010. The application seeking restoration of the suit was also dismissed on 31.7.2012. The aforementioned order was assailed before the Lower Appellate Court which was dismissed on 17.1.2014. The Lower Appellate Court should not have dismissed the appeal as it should have

restored the suit subject to certain terms and conditions. The petitioner has been prevented to lead evidence in support of the submissions made in the plaint.

Learned counsel for respondents No.2 and 9 submits that plaintiff miserably failed to prove noting of wrong date as 16.01.2011 instead of 16.11.2010 as no register or diary has been produced on record, thus, there is no illegality and perversity in the orders under challenge.

I have heard the learned counsel for the parties, appraised the paper book and of the view that no doubt, the petitioner-plaintiff had been negligent in pursuing the matter resulting into dismissal of suit in default but the Lower Appellate Court ought to have restored the suit subject to terms and conditions.

Be that as it may, I deem it appropriate to set aside the impugned order. The application for restoration is allowed and suit is restored to its original number. The revision petition stands allowed subject to costs of ₹10,000/- which shall be a condition precedent. The trial Court shall proceed further with the trial in accordance with law

The parties are directed to appear before the trial Court on 30.05.2018.

(AMIT RAWAL)
JUDGE

May 09, 2018
savita

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No