

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

**Civil Revision No.5587 of 2017 (O&M)**

**Date of Decision: March 28, 2018**

**Prem Pal @ Guttu (deceased) through L.Rs & another**

**...Petitioners**

**Versus**

**Punjab Wakf Board & others**

**...Respondents**

**CORAM: HON'BLE MR.JUSTICE AMIT RAWAL**

**Present: Mr.Ranjit Saini, Advocate,  
for the petitioners.**

**Mr.Aruz Khan, Advocate,  
for the respondent-Wakf Board.**

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**AMIT RAWAL, J. (Oral)**

Petitioner-defendants are aggrieved of the impugned order dated 3.5.2017, whereby the Additional Civil Judge (Senior Division), Mukerian, had allowed the application for restoration of the suit filed by the respondent-plaintiff.

Mr.Ranjit Saini, learned counsel representing the petitioner-defendants submitted that the suit was dismissed in default on 28.5.2012 after framing of the issues. The order dated 28.5.2012 reads thus:-

*“Present: None for the plaintiff.*

*Defendants No.2 and 3 expired.*

*Remaining defendants exparte.*

*File taken up again. Case called several times during different intervals of the day. It is already 3.30 PM. None has appeared on behalf of the plaintiff. Therefore, present suit is dismissed in default. File be consigned to the record room.*

*Sd/-Sonia Kinra*

*ACJ (SD)/28.5.12.*

The aforementioned application (Ex.P3) for restoration was submitted on 10.11.2012 beyond 30 days. The same was highly belated. No sufficient cause was given for not appearing on the date of hearing and, thus, urged this Court for setting-aside the impugned order.

Mr.Aruz Khan, learned counsel appearing on behalf of the respondent-plaintiff submitted that the reasons given by the plaintiff in the application are justified. If the counsel had not appeared, the Court should have sent notice to the party for appearance. No person should be made to suffer for the lapse of the counsel.

I have heard the learned counsel for the parties, appraised the paper book and of the view that there is no force and merit in the submissions of Mr.Saini, for, the trial Court, while allowing the application for restoration of the suit, which was dismissed at the stage of plaintiff's evidence, had noticed the fact that there was little delay in filing the application, which was condoned. The reasons given have been accepted, which, in my view, are not that ambiguous or would result in forming a different opinion. Even technicalities should not come away in such proceedings, for, both the parties would be at liberty to lead evidence. No purpose would be served in contesting the application as the matter can always be decided on merits.

For the reasons stated above, I am of the view that the order under challenge is perfectly legal and justified and cannot be said to be without jurisdiction. Resultantly, revision petition stands dismissed.

**March 28, 2018**  
**ramesh**

**( AMIT RAWAL )**  
**JUDGE**

**Whether speaking/reasoned**  
**Whether Reportable:**

**Yes/No**  
**Yes/No**