

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

CR No.599 of 2018 (O&M)

Date of Decision: February 08, 2018

Ansal Housing and Construction Ltd

...Petitioner

Versus

Rajinder Hota

...Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Vaibhav Narang, Advocate
for the petitioner.

FATEH DEEP SINGH, J.

A civil suit titled as Ansal Housing and Construction Ltd vs. Rajinder Hota present petitioner and respondent respectively was filed by the present petitioner and the same was pending before the Court of learned Civil Judge, Junior Division, Ludhiana and it was by virtue of orders dated 23.2.2016 Annexure P/2 on account of non-appearance from the side of the plaintiff the suit was dismissed for non-prosecution in default. An application for restoration of the suit was moved and which stood dismissed vide orders dated 6.10.2017 by the Court of learned Civil Judge, Senior Division, Ludhiana. The same is impugned before this Court in this civil revision with the aid of Section 115 of CPC read with Article 226 of Constitution of India.

Upon hearing learned counsel for the petitioner and perusing the records of the case, learned counsel for the petitioner accepts the fact that during the course of submissions, on 23.2.2016 their counsel had appeared and requested for an adjournment but due to inadvertence his

presence could not be marked and case was dismissed for non-prosecution certainly is a factor which bounce back upon the applicant-petitioner and rather to the mind of this Court tantamounts to levelling aspersion on the working of the Court below. More so, to the specific query of the Court, there is no such corroborative evidence by way of either affidavit of the said counsel or his statement being made to substantiate the same rather undermines the ground on which the application has come about. As is there, the suit was dismissed in default on 23.2.2016, the application for restoration has been filed on 4.4.2016 after prescribed period of limitation i.e. 30 days. As is rightly observed by the Court below in the impugned order that neither any prayer for condonation of delay nor any specific reason is forthcoming and the mere contention that has sought to be raised by the learned counsel they were never informed of the dismissal by their counsel certainly is too weak a plea to be accepted on the face of it. As is there in the orders, for more than 08 years, since the suit was filed on 13.12.2008 the matter has been adjourned repeatedly by the Court for the purpose of recording evidence and it was for want of evidence the Court was compelled to take such a harsh step. Rather the impugned order shows how the Court below has considered at length in details the intentional lapses on the part of the petitioner in unduly delaying the proceedings and, therefore, such a gross negligent conduct cannot be rewarded acceding to such a prayer for restoration. More so, in the absence of any specific cause or prayer for condonation of delay the application has been rightly dismissed being beyond period of limitation. The impugned order certainly is correct appreciation and does not calls for any interference. Thus, the

petition being hopelessly without any merits stands dismissed with costs of Rs.20,000/- for unnecessarily wasting the precious time of the Court which shall go to Free Legal Aid Clinic, Ludhiana.

(FATEH DEEP SINGH)
JUDGE

February 08, 2018

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No