

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CM No. 7022-CII-2018 in/and
CR No. 6262 of 2017 (O/M)
Date of decision : 16.4.2018

Makhan Singh Petitioner
Versus
Mukhtiar Singh and another Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. K.V. Singh, Advocate (Legal Aid Counsel),
for applicant-petitioner.

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 ?
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KULDIP SINGH J. (ORAL)

CM-7022-CII-2018

Heard.

For the reasons mentioned in application, application for filing of amended revision petition is allowed. Amended petition is taken on record.

Application is disposed of.

Main case

Impugned in present amended revision is order dated 16.8.2016, passed by the learned Additional Civil Judge (Senior Division), Sultanpur Lodhi, vide which an application filed under Order IX Rule 9 CPC, 1908, for restoration of suit, which was dismissed in default, was dismissed. Also impugned is order dated 10.4.2017, passed by the learned Additional District Judge, Kapurthala, vide which appeal against said order was dismissed.

Heard.

CR No. 6262 of 2017 (O/M)

It comes out that a suit for specific performance was pending which was dismissed in default on 26.8.2011. An application for restoration of same was filed after more than three years and two months i.e. on 25.11.2014 on the ground that petitioner was convicted under Section 304-B IPC and was sentenced for a period of seven years. Therefore, he could not pursue the case. The order of trial Court shows that even as per the custody certificate, petitioner was released from custody on 19.4.2014. The limitation for restoration is thirty days. However, the application was moved on 20.10.2014 i.e. after a lapse of six months. No reason has been mentioned why there is delay of another six months after his release from custody. Moreover, it was a civil suit and present petitioner was not required to appear in person. The application was filed after a huge delay of more than three years. There is no illegality or infirmity in impugned order. Consequently, revision is dismissed. Since main case is dismissed, therefore, pending application, if any, also stands disposed of.

(KULDIP SINGH)
JUDGE

16.4.2018
sjks

Whether speaking / reasoned : Yes / No

Whether Reportable : Yes / No