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

CR-6492-2017

Date of decision : 23.04.2018

Jarnail Singh

... Petitioner(s)

Versus

Municipal Corporation, Patiala and another

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. J.S. Pannu, Advocate/Legal Aid Counsel,
for the petitioner.

Ms. Amrit Kaur, Advocate
for the respondent(s).

AMIT RAWAL, J. (ORAL)

The petitioner is aggrieved of the impugned order dated 03.10.2013 (Annexure P-1), whereby the objection filed against the award dated 09.03.2012 have been dismissed in default as well as the order dated 20.04.2017, vide which, the restoration application has been dismissed.

Learned counsel for the petitioner submitted that due to certain reasons mentioned in the restoration application, the counsel could not appear before the Objecting Court for pursuing the objection petition filed against the award dated 09.03.2012 passed by the Superintendent Engineer, Municipal Corporation, Patiala regarding Claim No.5873 of 23.12.2009 pertaining to the construction of Dharamshala/Community Hall in Ward No.20, Patiala. An application dated 28.11.2013 for restoration of the objections was moved and the Court below after framing the issues had

dismissed the restoration application by holding that the story given in the application viz-a-viz evidence was totally different.

He further submitted that the Court should not have pondered upon the aforementioned fact, but ought to have granted the opportunity to address the arguments on objection petition, subject to any terms and conditions, which the Court may deem fit appropriate, thus, urges this Court for setting aside the impugned orders, under challenge.

Ms. Amrit Kaur, learned counsel appearing on behalf of the respondents submitted that no explanation reasonable or justified has come forth in not appearing before the Objecting Court, even on the previous dates, counsel had been absent and rightly so, the objection petition as well as the restoration application has been dismissed, thus, urges this Court for dismissal of the present revision petition by upholding the impugned orders, under challenge.

I have heard learned counsel for the parties, appraised the paper book and of the view that there is force and merit in the submissions of Mr. Pannu, for, the fact of the matter is that objection petition was dismissed for non-prosecution on 03.10.2013, whereas the application for restoration was filed on 28.11.2013. The Objecting Court should not have continued with the application by treating it to be a third party objections or a suit by framing the issues, dehors of the fact that other party being Municipal Corporation Patiala, is objected to the restoration application, rather the entire focus should have been on the decision of the objection petition. The conduct of the petitioner had though also been noticed in the impugned orders, but I do not intend to comment upon the same, for, the technicalities should not come in the way of *lis*. 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 objection petition is restored to its original number.

Resultantly, the present revision petition stands allowed.

23.04.2018 Yogesh Sharma	(AMIT RAWAL) JUDGE
	✓
Whether speaking/reasoned	Yes/ No
	✓
Whether Reportable	Yes/ No