

It comes out that plaintiff had filed a suit for possession by way of specific performance on 8.9.2014. None appeared for plaintiff whereas defendants No. 1 to 3 appeared through counsel. Trial Court dismissed the suit in default which is apparently an order passed under Order IX Rule 9 CPC, 1908. Plaintiff filed an application for restoration of suit on 12.1.2015

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which was alongwith application for condonation of delay. Said application was also dismissed on 21.8.2015. At the very outset, it comes out that order of dismissal was passed in the presence of counsel for defendants. Therefore, this order was passed under Order IX Rule 9 CPC, 1908. The application for restoration of suit is apparently under Order IX Rule 9 CPC, 1908. As per Order XXXXI Rule 1 (c) CPC, 1908, said order is an appealable order. Therefore, revision before this Court under Article 227 of Constitution of India is not maintainable. It is also noticed that revision is pending since year 2015 and both parties have put in appearance. Therefore, in order to save time and expenses and to decide real controversy between the parties expeditiously, present revision is ordered to be treated as appeal and is transferred to the Court of learned District Judge, Gurgaon, for disposal in accordance with law. The learned counsels for respondents No. 1 and 3 who are present are directed to put in appearance before the Court of learned District Judge, Gurgaon, on 24.5.2018 at 10:00 AM. Registry is directed to send file immediately.

Disposed of.

(KULDIP SINGH)
JUDGE

3.5.2018
sjks

Whether speaking / reasoned : Yes / No

Whether Reportable : Yes / No