

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

**CR No.8093 of 2017 (O&M)
Date of decision : March 01, 2018**

Babu Ram (now deceased) through LRs Petitioner

Versus

Sham Lal and others Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Sanjiv Gupta, Advocate for the 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 ?

KULDIP SINGH J. (ORAL)

Heard.

Vide impugned order dated 19.12.2009 (Annexure P-2) passed by the learned Civil Judge (Jr. Divn.), Dasuya, the execution filed by the present petitioner was dismissed for non-appearance of decree holder or his counsel for the last 4-5 dates.

Thereafter, on 21.10.2015, an application was filed for restoration of the said execution, titled as ***“Babu Ram vs Om Parkash”***, stating that the petitioner came to know about the dismissal of the execution in April 2015. Even from the said date, the application was filed after six months, which was dismissed by the learned Civil Judge (Jr. Divn.), Dasua, vide order dated 04.07.2017 (Annexure P-7)

Learned counsel for the petitioner has stated that the Limitation Act, 1963, does not apply to the executions. He has relied upon the authority of Hon'ble the Rajasthan High Court, delivered in case of ***“Padmavati Devi (since deceased) through L.Rs. vs J.D.A.”***, 1997(4) ICC

695.

A perusal of the said authority shows that in the said case, the application for restoration was filed after 1-1/2 years. However, in the present case, it has been filed after more than 5 years.

I am of the view that if the petitioner does not pursue the execution and none appears on his behalf for the last 4-5 dates, the Executing Court is justified in dismissing the execution in default. It is not the law since the provisions of Limitation Act, 1963 do not apply, the party can come at any time, which in this case is more than 5 years, seeking restoration. The petitioner can always file a fresh execution, subject to law of limitation.

It being so, there is no illegality or infirmity in the impugned orders.

As such, the present revision petition is dismissed.

(KULDIP SINGH)
JUDGE

March 01, 2018

sarita

Whether speaking / reasoned Yes

Whether Reportable: No