

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

CR No.9005 of 2017

Date of Decision: 16.07.2018

Usha Rani

.... Petitioner

Versus

Jaswinder Singh and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. R.S. Chauhan, Advocate
for the petitioners.

Ms. Nimarta Kaur, Advocate for
Mr. Sunil Agnihotri, Advocate
for respondent No.1.

RAJ MOHAN SINGH, J. (Oral)

[1]. Petitioner has challenged the order dated 17.10.2015 passed by Additional Civil Judge (Senior Division), Dasuya vide which suit was ordered to be dismissed in default and order dated 14.11.2017 passed by Civil Judge (Junior Division), Dasuya, vide which application for restoration of the suit was dismissed.

[2]. The application for restoration of the suit was filed after five days of the order dated 17.10.2015. The prayer for restoration of the suit was dismissed on the ground that earlier

the suit was dismissed in default on 17.05.2010 and thereafter, it was restored on 03.09.2014 by the Additional Civil Judge (Senior Division), Dasuya. The interlocutory order dated 12.10.2015 would show that though proxy counsel appeared on behalf of the plaintiff and sought adjournment. Thereafter, the case was adjourned to 17.10.2015 and on the said date, none appeared on behalf of the plaintiff. Owing to the aforesaid conduct of the plaintiff, the suit was ordered to be dismissed in default.

[3]. Since the application for restoration of the suit was filed promptly within 5 days of the date of dismissal, therefore, prompt filing of the application itself is a ground for restoration of the same. However the conduct of the plaintiff can be deprecated for which she can be burdened with costs of Rs.10,000/- to be paid to the defendants/respondents.

[4]. In view of aforesaid, impugned orders are set aside. Civil suit is ordered to be restored to its original number. Payment of cost shall be the condition precedent for granting indulgence by the trial Court. Normal consequences to follow.

July 16, 2018
Prince

(RAJ MOHAN SINGH)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No