

117

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

**Civil Revision No.8404 of 2018
Date of Decision: 10.12.2018**

VARIND JAIN

.....Petitioner

Vs

SATINDER SINGH CHADHA AND ANOTHER

....Respondents

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. Kamal Satija, Advocate
for the petitioner.

RAJ MOHAN SINGH, J. (Oral)

[1]. Petitioner has assailed the order dated 01.11.2018 passed by the Rent Controller, Chandigarh vide which the application filed by the respondents for restoration of the rent petition was allowed.

[2]. Learned counsel for the petitioner contended that though the rent petition has been restored by the Rent Controller, Chandigarh, but the conduct of the rent-petitioners was not such that would have attracted indulgence of the Court by ignoring delay in moving the application for restoration of the rent petition. Para No.3 of the application for restoration of rent petition was suggestive of the fact that the case was adjourned

for 23.01.2018, but the counsel for the rent-petitioners noted the wrong date as 23.02.2018 in place of 23.01.2018. In fact the petition was dismissed in default on 20.02.2018 and not on 23.01.2018. If the delay is counted from 20.02.2018, the filing of application would be barred by 5 days only. Petitioner has highlighted the conduct of the rent-petitioners in filing reply to the application and the said stand of the present petitioner ought to have attracted penal costs for restoration of the rent petition.

[3]. Learned counsel further contended that the trial Court was not justified in invoking inherent jurisdiction under Section 151 CPC in view of the aforesaid facts on record.

[4]. I have considered the submissions made by learned counsel for the petitioner.

[5]. Though the rent-petitioners were negligent in pursuing their litigation diligently with reference to exact date on which the rent petition was dismissed in default, but the fact remains that they have filed the application treating the date of dismissal of the petition to be 23.01.2018. The said date would have aggravated the rigor of Section 5 of the Limitation Act to a larger extent, but since the petitioner has submitted that the petition was dismissed in default on 20.02.2018, therefore, the filing of application for restoration of the rent petition is found to be

barred by delay of 5 days.

[6]. In **Bhagmal and others vs. Kunwal Lal and others, (2010-4) PLR 267** and **Rattan Chand vs. State of Punjab and others, 2007(1) HRR 116**, the Courts have held that separate application under Section 5 of the Limitation Act is not necessary, when the pleadings in terms of sufficiency of cause is pleaded in the application for restoration of the petition itself. Since the sufficient cause in not filing the application emanates from application for restoration of the petition itself, therefore, there is no necessity of filing separate application under Section 5 of the Limitation Act. Though the trial Court was not vested with such powers as exercised in the aforesaid context, however this Court in a supervisory authority under Article 227 of the Constitution of India deems it appropriate that the negligent act on behalf of the rent-petitioners ought to have been considered in terms of imposing some adequate costs while restoring their rent petition.

[7]. In view of aforesaid, I deem it appropriate not to interfere in the impugned order, however the rent petitioners are directed to pay costs of Rs.10,000/- in place of costs of Rs.1,000/- already imposed by the Rent Controller, Chandigarh to the petitioner.

[8]. With the aforesaid modification this revision petition is

disposed of. However, if the respondents have any grievance against imposition of the aforesaid costs, they may move an appropriate application before this Court as this order is being passed to prevent further delay in disposal of the petition. Otherwise imposition of penal costs shall be the condition precedent for granting indulgence in favour of the rent-petitioners.

December 10, 2018

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Whether speaking/reasoned
Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No
Yes/No