

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

CR No.1582 of 2015 (O&M)

Date of decision:30.01.2019

Manpreet Singh and another

... Petitioners

 $V_S.$

Ranjit Kaur and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. S.S.Salar, Advocate
for the petitioner.

None for the respondents.

AMIT RAWAL J. (Oral)

The present revision petition is directed against the impugned order dated 16.07.2014 whereby an application for restoration of the appeal which was dismissed in default on 18.11.2009 alongwith application for condonation of delay, has been dismissed.

Mr. S.S.Salar, learned counsel appearing on behalf of the petitioner submitted that the appeal was dismissed in default on 18.11.2009. However, the appeal was not ordered to be listed for arguments but meant for impleading the legal representatives of respondent no.1. On acquiring the knowledge in the month of May 2010, the application for restoration of appeal alongwith prayer for condonation of delay was filed but the Court below dismissed the same on the ground of delay.

Despite service, there is no representation on behalf of the respondents.

I have heard the learned counsel for the petitioners, appraised the paper book and of the view that the Courts below should not have dismissed the application on the ground of delay noticing the aforementioned fact and laid focus in deciding the appeal. The explanation given in the application should have been addressed by noticing the record whether the appeal was listed or not.

Be that as it may, in order to prevent miscarriage of justice, I am of the view that order under challenge is suffering from illegality and perversity, much less not sustainable and the same is hereby set aside. The application for restoration of the appeal is allowed and the appeal is ordered to be restored to its original number. The Lower Appellate Court is directed to decide the appeal on merits as expeditiously as possible preferably within a period of six months from the date of receipt of certified copy of this order.

Revision petition stands allowed.

The parties through their counsel are directed to appear before the Lower Appellate Court on 20.02.2019.

(AMIT RAWAL)
JUDGE

January 30, 2019

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Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No