

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

**CR No.5699 of 2018(O&M)
Date of Decision: 28.11.2019**

Gurlal Singh and anotherPetitioners
Versus
Sardara Singh and othersRespondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present:Mr. Rohit Aggarwal, Advocate for
Mr. Navjot Singh, Advocate
for the petitioners.

Mr. Hardeep Singh, Advocate
for respondents No.1 to 8, 10 to 16.

RAJ MOHAN SINGH, J.(Oral)

[1]. Petitioners have laid challenge to the orders dated 31.07.2017 and 23.07.2018 passed by Civil Judge (Junior Division), Rajpura, dismissing the suit in default and refusing to restore the same.

[2]. On 31.07.2017, none appeared on behalf of the parties and the suit was dismissed in default. Thereafter, an application was filed for restoration of the suit which was also dismissed on 23.07.2018 on the premise that in fact the case was adjourned to 10.08.2017 and the ground taken by the petitioners that in fact the case was adjourned to 17.08.2018, amounted to putting blame on the Court itself.

[3]. In view of order dated 17.10.2019 passed by this Court, service is complete in view of report submitted by the office on 26.11.2019.

[4]. Even though, the plea taken by the petitioners gives rise to some blame, but cause of justice should not be subverted. Perusal of order dated 31.07.2017 would show that none appeared on behalf of the parties and the trial Court dismissed the case in default. The said order falls under the ambit of Order 9 Rule 3 CPC and filing of fresh suit was not barred subject to limitation.

[5]. The application may not have espoused the cause for non-appearance, but certainly cause of justice has to be preserved by restoring the suit, however subject to payment of some cost(s).

[6]. In view of above, impugned orders are set aside. This revision petition is allowed subject to payment of cost(s) of Rs.10,000/- to be paid to the respondents. Payment of cost(s) shall be the condition precedent for granting indulgence by the trial Court in the aforesaid context. Normal consequences to follow.

28.11.2019

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**(RAJ MOHAN SINGH)
JUDGE**

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No