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

**CM No.21676-CII of 2019 in/and
Civil Revision No.6851 of 2016 (O&M)
Date of Decision: 05.11.2019**

DALJIT SINGH

.....Petitioner

Vs

TARSEM SINGH & ORS.

.....Respondents

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

Present:Mr. Jagdish Manchanda, Advocate for
Mr. Dinesh Kumar Chaudhary, Advocate
for the applicant-petitioner.

RAJ MOHAN SINGH, J.

CM No.21676-CII of 2019

This is an application under Order 9 Rule 9 read with
Section 151 CPC for restoration of the revision petition which
was dismissed for non-prosecution vide order dated 24.09.2019.
For reference, the order dated 24.09.2019 is reproduced
hereasunder:-

*“Despite two pass overs, none has come to address
arguments on behalf of the petitioner.*

*Learned counsel for the respondents submitted that
after the impugned order, the petitioner has again filed an
application under Order 7 Rule 11 CPC before the trial Court
and the said application is pending for reply by the plaintiffs.*

Present application was filed under Section 151 CPC for rejection of the plaint. Vide the impugned order dated 03.08.2016, the said application has been dismissed.

Since there is no representation on behalf of the petitioner, therefore, I deem it appropriate to dismiss the present revision petition for non-prosecution.

Dismissed for non-prosecution.”

Vide the aforesaid order, it was noticed that after passing of the impugned order dated 03.08.2016, dismissing the application under Section 151 CPC, defendant again filed an application under Order 7 Rule 11 CPC before the trial Court, seeking rejection of the plaint on the ground of court fee.

During course of arguments, learned counsel for the applicant-petitioner has admitted that the trial Court has not rejected the plaint, rather directed the plaintiff to affix the requisite court fee.

Learned counsel further submitted that non-appearance by the counsel on behalf of the applicant-petitioner on 24.09.2019 was on account of reasons beyond his control and the non-appearance was not intentional.

Evidently, the plaint has not been rejected under Order 7 Rule 11 CPC. In the event of non-affixing the requisite court fee by the plaintiff, the consequence of non-compliance of the order passed by the trial Court would apply.

The factum of passing of subsequent order in the

application under Order 7 Rule 11 CPC has not been denied by learned counsel for the applicant-petitioner.

For the reasons mentioned in the application, the same is allowed. Non-appearance on behalf of learned counsel for the petitioner on 24.09.2019 is hereby condoned. The revision petition is ordered to be restored to its original number.

CR No.6851 of 2016 (O&M)

In view of factual position, this revision petition has no substance on merits, therefore, the same is ordered to be dismissed on merits.

November 05, 2019

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**(RAJ MOHAN SINGH)
JUDGE**