

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

Sr. No.114

C.R. No.684 of 2019

Date of decision: 31/01/2019

Umrao and another

....Petitioners

versus

Chhatarpal Singh and others

....Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Sudhanshu Makkar, Advocate
for the petitioners.

* * *

DEEPAK SIBAL, J. (Oral)

The present petition is directed against the order dated 11.01.2019 passed by the Additional District Judge, Bhiwani (for short – the Appellate Court) restoring the respondents' appeal which had been dismissed in default.

A perusal of the impugned order reveals that the respondents' appeal was listed before the Appellate Court on 16.05.2012 on which date, the Court directed learned counsel for the respondents to appear and argue the appeal on that date itself at 11.30 a.m. However, due to non-appearance of learned counsel for the respondents, at about 12.00 p.m., the appeal was dismissed in default. After considering the explanation given by learned counsel appearing for the respondents before the Appellate Court, which was that he could not reach the Court between 11.30 a.m. and 12.05 p.m. for the reason that while preparing the matter he lost measure of time, the Appellate Court being of the view that no prejudice would be caused to the petitioners if the respondents' appeal is decided on merits, ordered

restoration of the respondents appeal. However, such restoration was subject to costs of Rs.10,000/- to be deposited by the respondents before the District Legal Services Authority, Bhiwani.

In view of the above facts, no error is found in the impugned order warranting no interference in revisional jurisdiction.

Since the respondents' appeal was filed in the year 2011, it is directed that the same be disposed of in accordance with law within three months from the date of receipt of a certified copy of this order.

It is noticed that the respondents' appeal was dismissed in default on 16.05.2012 and the application for restoration was filed by the respondents on 11.06.2012 but the impugned order has been passed on 11.01.2019 i.e. after over 6 ½ years. The District Judge, Bhiwani is directed to go into the matter as to why over six and half years were taken by the Appellate Court to decide a restoration application. The needful be done within one month from the date of receipt of a certified copy of this order and a report in this regard be forwarded to this Court.

(DEEPAK SIBAL)
JUDGE

January 31, 2019

Jyoti 1

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No