

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

(109)

CR-1560-2019

Decided on: 10.05.2019

PARAMPREET SINGH RANDHAWA

.....Petitioner

Versus

GURCHARAN SINGH AND ANR.

.... Respondents

CORAM: HON'BLE MR. JUSTICE H.S. MADAAN

Present: Mr. M.K. Arya, Advocate,
for the petitioner.

H.S. MADAAN, J (ORAL)

This revision petition is directed against the order dated 22.11.2018 passed by Ld. Additional Civil Judge (Sr. Division), Batala whereby the application filed by the petitioner/plaintiff for restoration of the suit has been dismissed, in default.

Briefly stated the facts of the case of the petitioner/plaintiff are that he had filed a suit against the defendants-Gurcharan Singh and State Bank of Patiala, seeking specific performance directing defendant Nos. 1 & 2 with regard to a contract effected orally between the parties on 19.05.2007 which was later on reduced into writing on 19.01.2008 with respect to land measuring 7 kanals 8 marlas bearing Khasra No. 7OR/13 Khewat No. 166, Khatauni No. 281 situated at village Ghuman, Tehsil Batala, District Gurdaspur on payment of ₹10,00,000/- (rupees ten lakh only) out of which

₹5,00,000/- (rupees five lakh only) has already been paid as earnest money/part payment. According to the petitioner, he had gone abroad by appointing Harkaram Singh as his General Power of Attorney but due to some communication gap between him and his counsel the suit stood dismissed in default on 24.09.2013.

According to the petitioner/plaintiff, non-appearance was not intentional and un-willful and the petitioner/plaintiff sought restoration of the suit by making an application in the Court.

Notice of the application was given to the respondents, who did not opt to put in appearance and vide impugned order dated 22.11.2018 the application for restoration was dis-allowed. Since the respondents had been proceeded against ex parte before the trial Court, the issuance of notice to them is dispensed with.

I have heard learned counsel for the petitioner besides going through the record.

No doubt there is gross delay in filing the application for restoration of the suit, however, the explanation put forward by the petitioner seems to be plausible and convincing. It is always desirable that a *lis* should be decided on merits rather than non-suiting a party on technical grounds. Therefore the ends of justice demand that the impugned order should be set aside and the suit of the petitioner/plaintiff dismissed in default on 24.09.2013 be restored at its original number. However this order is subject to plaintiff depositing ₹15,000/- to be deposited with the District Legal Service Authority, Jalandhar within a period of one month from today.

In case the petitioner fails to comply with this condition and

fails to submit the receipt of the amount so deposited before the District Legal Service Authority, Jalandhar the revision petition shall be liable to be dismissed.

The petition stands allowed accordingly.

(H.S. MADAAN)
JUDGE

10.05.2019
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Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No