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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

SANJIV KUMAR SHARMA
10/4/2019 11:54
I attest to the accuracy and
authenticity of this document

CR-2400-2019 (O/M)
Date of decision : 9.4.2019

S.L. Chander Shekhar Lal Petitioner (s)

Versus

Housing and Urban Development Corporation Limited and another
..... Respondent (s)

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Inderjit Sharma, Advocate,
for petitioner.

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-:-

KULDIP SINGH, J. (ORAL)

Petitioner is aggrieved by order dated 16.3.2019 (Annexure-P-1), passed by learned Civil Judge (Junior Division), Kharar, vide which an application filed for restoration of suit, which was dismissed in default on 20.4.2011 (Annexure-P-4), was allowed.

The facts of case are that plaintiff-respondent No. 1 Housing and Urban Development Corporation Limited (in short 'HUDCO'), which is a Government of India Undertaking, filed a suit for recovery of Rs. 5,82,022/- inclusive of interest and penal interest against defendant petitioner. It is claimed that suit was fixed for 20.4.2011, but counsel wrongly noted down date as 27.7.2011. Consequently, suit was dismissed in default, vide order dated 20.4.2011 (Annexure-P-4). In the meanwhile, counsel was appointed as Presiding Officer in Consumer Forum, Faridkot, and, therefore, she returned all briefs to plaintiff. In the application, prayer was also made for condoning the delay as application for restoration of suit was filed on 16.5.2012 i.e. after a delay of 360 days.

The trial Court, after hearing both parties and examining the case laws on the point, took view that the Court should have liberal

approach in condoning the delay. For fault of counsel, party should not suffer. The public money is involved. Hence, delay was condoned and application for restoration of suit was allowed, subject to cost of Rs. 1,000/-.

The learned counsel for petitioner contends that delay has been wrongly condoned. In the meanwhile, plaintiff-respondent had filed proceedings before Debt Recovery Tribunal under the SARFAESI Act, 2002 which was contested and reply was also filed by petitioner. It is further claimed that he has already paid Rs. 11,11,520/-, in pursuance to order of the Court. Therefore, the claim has otherwise been satisfied.

After going through impugned order, I am of the view that suit was filed by HUDCO, a Government of India Undertaking. Due to mistake of counsel appearing for plaintiff and delay in returning the briefs, restoration application could not be filed within time. The trial Court has discussed the case laws on the point to condone the delay. I do not find any illegality or infirmity in impugned order. Regarding the plea of huge delay, the same can be taken before the trial Court, which shall be dealt with. Same is position regarding plea of res subjudice under Section 10 and repayment. It being so, revision is dismissed.

(KULDIP SINGH)
JUDGE

9.4.2019
sjks

Whether speaking order : Yes / No

Whether reportable : Yes / No