

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

117

CR No.8200 of 2017 (O&M)

Date of decision: 25.02.2019

M/s Gupta Traders Gurdaspur

..... Petitioner

Versus

Arvind Gupta (deceased) and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Rahul Verma, Advocate
for the petitioner.

Mr. Ritesh Pandey, Advocate
for the respondents.

ANIL KSHETARPAL, J.(ORAL)

Challenge is to the order passed by learned trial Court dismissing the application for restoration of the case which was dismissed in default. The suit was filed by a proprietary concern through Sh. Kishore Kumar Gupta who is stated to be now missing. A suit for recovery of Rs.4,37,000/- was filed. However, during the pendency of the suit, Sh. Kishore Kumar Gupta suffered a major heart attack and he had undergone a heart surgery, because of which he was advised to take bed rest for six months and therefore, he could not appear in the Court. It has further been pleaded that now whereabouts of Sh. Kishore Kumar Gupta not known. The son of Kishore Kumar Gupta has come forward and prosecuted the application for restoration and the application has been dismissed on the ground that the evidence of medical treatment has not been produced and the application was filed after a gap of six months.

In the revision petition, an inpatient bill has been produced in support of the contention that Kishore Kumar Gupta had undergone

Angioplasty (Coronary Single Vessel) on 05.11.2014.

However, learned trial Court took a very narrow view of the matter while dismissing the application for restoration of the suit. The Courts should make an sincere endeavour to decide the suit on merits rather than dismissing the suit on the grounds other than on merit.

In view thereof, the order under challenge is set aside. The suit is restored to its original number and the trial Court is requested to decide the same on merits. However, such restoration shall be subject to payment of cost of Rs.3,000/-. Learned trial Court is requested to make a sincere effort to dispose of the suit as expeditiously as possible.

With these observations, the revision petition is allowed.

The pending miscellaneous application, if any, shall stand disposed of accordingly.

25.02.2019
Dinesh Bansal

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned Yes / No

Whether Reportable Yes / No