

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

Civil Revision No.961 of 2020

Date of Decision:11.2.2020

M/s J.P.Construction Company

...Petitioner

Versus

Educational and Social Welfare Trust, RIMT and others ...Respondents

CORAM: HON'BLE MR.JUSTICE RAJIV NARAIN RAINA

Present: Mr.Jasdeep Singh, Advocate
for the petitioner

RAJIV NARAIN RAINA, J. (ORAL):

1. Prayer in this petition is for setting aside the order dated 20.12.2019 passed by the Additional Civil Judge (Sr.Division), Khanna, whereby application filed by the petitioner seeking restoration of the suit has been dismissed.

2. The petitioner is a plaintiff in a suit for recovery of money against the defendants. The suit was dismissed in default by the Additional Civil Judge (Senior Division), Khanna on 29.2.2016. The application for restoration of the suit was filed on 31.5.2018 i.e. after a delay of more than 2 years and 3 months. The reason assigned for the delay by the plaintiff is that counsel was not attending to the court proceedings and he could not meet his counsel because of his busy schedule. The learned trial Court vide order dated 20.12.2019 has found no substance in the application dated 30.5.2018 which does not even care to mention the provision of the Code of Civil Procedure under which it has been filed and shows a casual approach to the Court and of the plaintiff in prosecuting his case. The trial Court has dismissed the application being time barred. Plaintiff could not successfully plead the date of knowledge of the order dismissing his suit for default as

observed by the trial judge that “he was very much having a knowledge of the last date of the case i.e. 29.2.2016 but he has not tried to know about the fate of the case from 29.2.2016 till 31.5.2018.”

3. In this petition filed under Article 227 of the Constitution, the petitioner has challenged the order dated 20.12.2019. No substantial arguments have been advanced for this Court to take a lenient view which I am afraid this Court is not in a position to excuse within the limited jurisdiction exercised by the subordinate Courts to keep within the bounds of their jurisdiction. The trial Court has not exceeded or conceded an inch of its discretion contrary to law. I find no legal infirmity or illegality in the order dated 20.12.2019 passed by the learned trial judge, which has been passed in sound exercise of discretion which is not open to this Court to substitute of what may appear to be a better option.

4. The petition is dismissed accordingly.

February 11, 2020
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(RAJIV NARAIN RAINA)
JUDGE

Whether speaking/reasoned
Whether reportable-

Yes/No.
Yes/No