

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

CR No.7659 of 2019

Date of Decision: 03.03.2020

United Church Northern India Trust Association

..... Petitioner

Versus

Marry Wilson and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPALPresent: Mr.Yogesh Goel, Advocate,
for the petitioner.Mr.Sanjay Jain, Advocate,
for the respondents.

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ANIL KSHETARPAL, J. (Oral)

The correctness of order passed by learned Civil Judge (Junior Division), Ludhiana, dated 05.10.2019, has been questioned by filing the present revision petition under Article 227 of the Constitution of India. United Church Northern India Trust Association filed an application for impleadment of party (defendant) under Order 1 Rule 10 CPC in a suit filed by the respondent-plaintiff - Marry Wilson, seeking a decree for permanent injunction restraining the defendants from interfering in the peaceful possession of the plaintiff over property measuring 100 sq. yards situated at UCNI, Mission Compound, Brown Road, Ludhiana. The petitioner, claiming to be the owner of the property, filed an application for impleading him as a party defendant in the suit. The aforesaid application was

dismissed for non-prosecution on 31st October, 2017.

An application for restoration of the application under Order 1 Rule 10 CPC was filed before the Court, which was dismissed by the learned trial Court vide order dated 5th October, 2019. Operative part of the order reads as under:-

“I have heard learned counsel for the parties and perused the file carefully. This court is of the considered view that the present application filed by the applicant is absolutely not maintainable as the perusal of the Zimni order of the present case reveals that the applicant was not interest to pursue the litigation and as such, the application filed by the applicant under Order 1 Rule 10 CPC has dismissed vide order dated 31.10.2017 and thereafter no presence of the counsel of the applicant nor the applicant has been marked in the Zimni orders of the case by this court and the present application has been filed on 9.4.2018 i.e. beyond the period of limitation i.e. period of 30 days from the date of the dismissal of the application. As such, the present application stands dismissed. Now to come up on 23.10.2019 for evidence of the plaintiff.”

It is apparent that learned Civil Judge (Junior Divn.), Ludhiana, while passing the order, did not even consider the assertions/averments made in the application for restoration. Still further, learned Court has overlooked the fact that rules of procedure are to advance the cause of justice and not to scuttle it. The efforts of all the Courts should be to make a sincere endeavour to decide the cases on merits rather than on technicalities. The efforts should be to do and ensure substantive justice.

Keeping in view the aforesaid facts, the order under challenge is set aside. The application filed under Order 1 Rule 10 CPC is restored to its original number.

The learned Civil Court is requested to decide the application under Order 1 Rule 10 CPC within a period of two months from the date of

the receipt of certified copy of this order.

Accordingly, the present civil revision petition stands allowed.

3rd March, 2020
P.Seth

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No