

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

CR-1650-2017 (O&M)

Date of decision: 14.12.2021

Savitri through General Power of Attorney

....Petitioner

Versus

Marman and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. K.K.Saini, Advocate for the petitioner

ANIL KSHETARPAL, J (Oral)

The petitioner had filed a civil suit, alongwith 8 other family members. During the pendency of the suit, on the statement of the plaintiffs, the suit was dismissed as withdrawn on 20.08.2007. After a considerable time, the petitioner filed an application for restoration of the suit on the ground that she did not appear before the court and prayed for withdrawal of the suit. Both the courts on examining the record have found that Smt. Savitri herself appeared on 20.08.2007 and had made a statement alongwith the other plaintiffs to withdraw the suit. She was identified by the counsel representing the plaintiffs.

This Court, in order to verify the aforesaid fact, requisitioned the record, which has been received. On a careful perusal of the record, it is evident that at page 175 of lower court record, there is a joint statement of Smt. Chanda Devi, Dev Karan, Deepa Ram, Panmeshwar, Savitri, Jhanni, Kamla, Mayapati and Bai to the effect that

the parties have entered into a settlement and therefore, they do not wish to continue with the suit. Hence, they prayed for dismissal of the suit.

When an application for restoration was filed, learned court framed the following issues:-

“(1) Whether the application for restoration of the suit moved on behalf of the applicant Smt. Savitri is liable to be allowed on the grounds so mentioned in the same? OPA.

(2) Whether the instant application is not maintainable? OPR.

(3) Relief.”

Both the parties were granted an opportunity. The petitioner, in order to prove her case, examined herself, Deepa Ram and Shiv Ram and thereafter, her counsel closed the evidence.

The learned counsel representing the petitioner contends that the petitioner was not given any opportunity to prove that she did not appear before the Court on 20.08.2007. He submits that an application for bringing that fact from an expert was dismissed.

In the considered view of the Court, the applicant was given more than 1 ½ years to lead her evidence. The only issue which the petitioner was required to prove was that, she did not appear before the court on 20.08.2007. The petitioner failed to substantiate the aforesaid plea.

Keeping in view the aforesaid facts, no ground to interfere is made out.

Hence, dismissed.

All the pending miscellaneous applications, if any, are also disposed of.

14.12.2021
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE