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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CM-14028-CII-2021 in/and
CR-7013-2015

Date of Decision:15.12.2021

Balkishan (since deceased) through Nitan Arora

....Petitioner

VS

Santokh Singh (deceased) through his LRs and others

....Respondents

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Nitan Arora, petitioner in person.

Mr. Sarabjeet Singh, Advocate
for respondents No.2 and 3

SUDHIR MITTAL, J. (Oral)

CM-14028-CII-2021

Since the main case is listed today, the application has been rendered infructuous and is disposed of as such.

CR-7013-2015

An offer of provision of Legal Aid Counsel was made but the petitioner has refused the same.

In a pending suit for injunction, the plaintiff-petitioner had filed an application for initiation of contempt proceedings against the defendants. The application was dismissed under Order 9 Rule 3 CPC vide order dated 16.08.2012. The application for restoration has also been dismissed vide order dated 03.07.2015. Hence, the present revision petition has been filed.

A perusal of order dated 03.07.2015 shows that the trial Court has disbelieved the explanation given by the plaintiff-petitioner that a wrong date was noted. It has been found that on 28.07.2012, the case was adjourned to 16.08.2012 in the presence of the counsel but no evidence has been placed on record to show that the counsel had also noted a wrong date.

his interests and it is on account of the said *mafia* that his contempt petition has not been restored.

Learned counsel for respondents No.2 and 3 submits that order dated 03.07.2015 is legal and valid. The excuse of noting of wrong date has been found to be incorrect and there is no infirmity in the order calling for interference by this Court.

The facts show that the application of the petitioner was dismissed under Order 9 Rule 3 CPC as he did not appear on one date only. There is no allegation that he has been delaying the matter intentionally and has been continuously avoiding appearing before the Court. Thus, even though nothing has been argued regarding the finding recorded in order dated 03.07.2015, the interest of justice would require that the application be decided on merits.

Accordingly, the revision petition is allowed and impugned orders dated 03.07.2015 as well as order dated 16.08.2012 are set aside. The application is restored to its original number for a decision on merits in accordance with law.

Since, main case is decided, any pending application also stands disposed of.

(SUDHIR MITTAL)
JUDGE

15.12.2021
Poonam Negi

Whether speaking/reasoned	Yes/No
Whether Reportable :	Yes/No