

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

Sr. No.115

CR-2048-2021 (O&M)
Date of decision : 27.10.2021

Chameli

..... Petitioner

VERSUS

Sunder Lal

..... Respondent

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Sumit Sangwan, Advocate, for the petitioner.

SUDHIR MITTAL, J. (Oral)

CM-11573-CII-2021

This application has been filed for placing on record Annexure P-7 and for exemption from filing original/certified copy thereof.

For the reasons stated therein, the application is allowed.

Annexure P-7 is taken on record.

Exemption sought is granted.

CR-2048-2021

The petitioner is the defendant. She is aggrieved because vide the impugned order dated 24.08.2021 (Annexure P-1), application for restoration of the suit dismissed for non-prosecution has been allowed and the suit has been restored.

Learned counsel for the petitioner submits that the conduct of the plaintiff-respondent dis-entitled him for grant of any relief. In the application filed in Court, copy of which is Annexure P-2, it has been stated that he could not appear on the date the suit was dismissed for non-prosecution, because, he was un-well and could not communicate the same to his counsel. However, copy of the application supplied to the

that his son has met with an accident. The stand being contradictory in nature shows that the reason given in the application is not bona fide. It has further been submitted that two last opportunities were granted to the plaintiff-respondent for concluding his evidence before the suit was dismissed for non-prosecution. Now, the trial Court has re-commenced the proceedings in the suit *ab initio*. In fact, the proceedings should have been re-commenced from the stage that the suit was dismissed for non-prosecution.

So far as, the argument regarding the reason for restoration of the suit not being bona fide, suffice to say that it is the policy of law to ensure that a lis is decided on merits rather than on technicalities. Thus, the trial Court cannot be faulted for allowing the application. Regarding the fact that the trial Court has commenced proceedings *ab initio*, I deem it appropriate to issue direction to the trial Court to restrict the plaintiff-respondent to two additional opportunities and nothing more.

With the aforementioned observations, the revision petition is disposed of. A direction regarding restricting the right of the plaintiff-respondent is being passed without notice as it would not adversely affect his rights.

(SUDHIR MITTAL)
JUDGE

27.10.2021

Ramandeep Singh

Whether speaking / reasoned

Yes / No

Whether Reportable

Yes/ No