

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

CR-208-2019

Date of decision: 26.08.2022

Smt. Asha Rani (now deceased) through her LR's & ors. Petitioners

Versus

Ravi Peshawaria (now deceased) through his LR's & ors. ...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Sharad Mehra, Advocate,
for the petitioners.

Mr. Bhavesh Aggarwal, Advocate,
for respondent No.1.

ANIL KSHETARPAL, J (Oral)

The plaintiffs' suit for grant of decree of declaration with a consequential relief of injunction filed by their predecessor Ayodhya Nath Peshawaria was dismissed in default on 07.08.2007 as both the parties were not present in the Court. Unfortunately, the application for restoration of the suit filed by the plaintiff was also dismissed in default on 14.06.2012. None of the party was represented by the counsels even on that date. The application for restoration of the application for restoration of the suit was filed on 04.10.2012, which has been dismissed. It is noted here that learned counsel representing respondent No.1 submits that the application was filed on 28.01.2013.

On reading of the application dated 04.10.2012, it is evident that the case was fixed for orders on the original application for restoration of the suit filed by the plaintiffs. During all these years, the proceedings for restoration of the application for restoration of the suit are pending in the Court. The Court has dismissed the application on the ground that the application was filed beyond the prescribed limitation period as per the Limitation Act, 1963.

In the peculiar facts of the case, the Court should have taken a pragmatic and fair view on the said matter. The Courts are required to

adjudicate the disputes on merits while trying to avoid the technical objections in order to impart justice. It is not necessary that the application for condonation of delay must be filed. The Court can condone the delay while exercising its own suo moto powers.

Defendants have not locus standi to oppose the application particularly when they were themselves not present either on 07.08.2007 or on 14.06.2012. Hence, the revision petition is allowed. Order dated 18.10.2018 is set aside. The suit is restored to its original number. The original application filed for the restoration of the suit shall be deemed to have been allowed. The Court is requested to decide the suit on merits.

26.08.2022

monika

Whether speaking/reasoned : Yes

Whether reportable : No

(ANIL KSHETARPAL)
JUDGE