

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

C.R.No.4290 of 2016(O&M)

Date of decision: 02.08.2022

Baldev Singh

..Petitioner

Versus

Sardool Singh and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Gagandeep Singh Sirphikhi, Advocate
for the petitioner.

None for the respondents.

ANIL KSHETARPAL, J(Oral)

Case called twice. The learned counsel representing the respondents did not come forward to attend the hearing.

This Bench has heard the learned counsel representing the petitioner at length and with his able assistance perused the paper book.

The petitioner herein is a plaintiff in a suit for grant of decree of declaration that the plaintiff is owner in possession of ½ share of the joint land described in the plaint with a consequential relief of permanent injunction. There are as many as 39 defendants in the suit. Civil suit qua defendant no.3 and 8 was dismissed for non-prosecution on 15.09.2010, whereas, qua defendant no.10 to 12, 15, 16, 18, 20, 22 to 39, it was dismissed for non-prosecution on 30.09.2014. The suit was dismissed for non-prosecution qua the aforesaid defendants as the plaintiff failed to provide their correct address or registered envelopes for summoning the defendants. The plaintiff changed his counsel. When the plaintiff/petitioner became aware that in the absence of the defendants qua whom the suit has

been dismissed, he cannot be granted effective relief, he filed an application for restoration of the suit qua those defendants. The Court has held that the application has been filed after a period of 5½ years and the application has been filed for restoration of the suit even with respect to the defendants which were proceeded against ex-parte. The court has also observed that the application is hopelessly time barred.

The plaintiff's suit is for declaring him the owner of immovable property. Undoubtedly, there was some negligence on the part of the plaintiff or his previous counsel. However, on that account alone, the plaintiff should not be deprived of his legal right to prosecute the suit on merits. It is a cardinal principle of law that the prescribed procedures are to advance the cause of justice, rather than scuttling it. The suit is still pending at the trial stage.

In view of the aforesaid facts, the suit qua the aforesaid defendants be restored subject to the payment of costs of Rs.10,000/- which shall be payable to the defendants, who are contesting the suit.

The revision petition is disposed of accordingly.

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

August 02, 2022

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(ANIL KSHETARPAL)
JUDGE

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