

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

129

CR-167-2021

Date of decision: 19.09.2022

RAVI KUMAR

..Petitioner

Versus

UTRI HARYANA BILJI VITRAN NIGAM LTD

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Govind Chauhan, Advocate
for the petitioner.

Ms. Nikita Goel, Advocate
for Mr. S.K. Mahajan, Advocate
for respondent.

ANIL KSHETARPAL, J(Oral)

The petitioner's suit was dismissed for non-prosecution on 10.12.2018. He filed an application for its restoration on 19.12.2019. It was asserted by the petitioner that his previous counsel Sh. Amit Arora was appointed as the President of District Consumer Dispute Redressal Forum, Faridabad (Haryana) and he came to know of the dismissal of the suit on 10.12.2019. The trial Court dismissed the application on the ground that the same has been filed beyond the period of 30 days from the date of dismissal without any application for the condonation of delay.

The trial Court dismissed the application on that account.

This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paperbook.

It is not in dispute that the petitioner while filing the application has asserted as under:-

“2- That the previous counsel for the applicant/plaintiff Sh. Amit Arora, Advocate was appointed as President, District Consumer Dispute Redressal Forum, Faridabad (Haryana) and the applicant was under the impression that the case is going on. On dated 10.12.2019 the applicant/plaintiff appeared in the Court then he came to

know that the Hon'ble Court has dismissed the suit in default due to non appearance of plaintiff.

3- That the non appearance of the plaintiff/applicant on the date fixed i.e. on 10.12.2018 was not intentional but due to the reasons stated above. The plaintiff/applicant has a good prima facie case. The plaintiff/applicant is appearing in the case regularly without fail and shall suffer an irreparable loss and injury, in case the suit is not restored to its original position and the same is not adjudicated on merits.”

The petitioner claims to have got the knowledge of the dismissal of the suit for non-prosecution only on 10.12.2019. Thus, the period of limitation would begin to run from 10.12.2019. In any case, the petitioner has already made sufficient assertions to explain the delay. The Court should have taken a broader view of the matter. Here is the case where the petitioner filed a suit engaging a counsel who was subsequently appointed as President of District Consumer Dispute Redressal Forum, Faridabad (Haryana). In such circumstances, the petitioner had no knowledge of the dismissal of the suit in default.

Keeping in view the aforesaid facts, the order dated 18.01.2021 is set aside. The suit filed by the petitioner is restored to its original number.

The parties through their counsel are directed to appear before the trial Court on 17.10.2022.

It shall be open to the petitioner to revive his request for permission to deposit 40% of the amount which shall be considered and decided in accordance with law.

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

September 19th, 2022

**(ANIL KSHETARPAL)
JUDGE**

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Whether speaking/reasoned : *Yes/No*

Whether reportable : *Yes/No*