

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

CR-1926-2022 (O&M)

Date of decision: 19.12.2022

Suresh and others

....Petitioners

Versus

Pale Ram and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Abhinav Sood, Advocate for
Mr. Vikram Singh, Advocate for the petitioners

Mr. Kulvir Narwal, Advocate for
respondent no.1 to 3

ANIL KSHETARPAL, J (Oral)

1. The correctness of the order dated 05.05.2022, passed by the Additional District Judge, Sonapat, while dismissing an application for restoration of the appeal, has been challenged in this revision petition. A suit for passing a decree for possession by way of the partition was pending. The preliminary decree for partition of the property came to be passed on 12.05.2014. The petitioner (defendant in the suit) filed an appeal challenging the correctness of the preliminary decree. The aforesaid appeal was dismissed for non-prosecution on 25.01.2018. Thereafter, the proceedings for the final decree culminated in a decree dated 30.11.2018. In the execution petition, the objections filed by various other defendants were dismissed by the executing court. A revision petition filed before this Court was also dismissed in January, 2022.

At that stage, the petitioner filed an application for re-

hearing of the appeal. The First Appellate Court has dismissed the same after observing that the petitioner has failed to explain sufficient cause for the delay of nearly 4 years.

3. This revision petition has been filed challenging the correctness of the aforesaid order.

4. Learned counsel representing the petitioners submits that the judgment passed by the court while passing the preliminary decree cannot be subsequently questioned, when the proceedings for final decree are pending. He submits that the petitioners should be granted an opportunity to contest the appeal.

5. This Court has considered the submission made by learned counsel representing the petitioner, however, does not find any merit therein. As already noticed, there is a delay of nearly 4 years in filing the application for re-hearing of the appeal. The petitioners are expected to explain the sufficient reasons for the delay of nearly 4 years. Moreover, in the meantime, the final decree has also been passed and the objection petition filed by various other defendants, has also been dismissed. Hence, no ground to interfere is made out.

6. Dismissed.

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

19.12.2022

rekha

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE